
No. 24-3304
[NO. 3:22-cr-05139-DGE, USDC, W.D. Washington]

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JOAO RICARDO DEBORBA,

Defendant-Appellant.

SUPPLEMENTAL EXCERPTS OF RECORD

Appeal from the United States District Court
for the Western District of Washington at Tacoma
The Honorable David G. Estudillo
United States District Judge

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SUPPLEMENTAL EXCERPTS OF RECORDS

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

UNITED STATES OF AMERICA,)	CR22-5139-DGE
)	
Plaintiff,)	Tacoma, Washington
)	
v.)	May 17, 2024
)	10:00 a.m.
JOAO RICARDO DeBORBA,)	
)	Sentencing
Defendant.)	

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE DAVID G. ESTUDILLO
UNITED STATES CHIEF DISTRICT JUDGE

APPEARANCES:

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1 MAY 17, 2024 - MORNING SESSION

2 * * * * * *

3 THE DEPUTY CLERK: This is the matter of the United
4 States of America versus Joao Ricardo DeBorba, Cause Number
5 CR22-5139-DGE.

6 Counsel for the government, please make an appearance.

7 MR. SHINER: Good morning, Your Honor. Max Shiner
8 appearing for the United States.

9 THE DEPUTY CLERK: And for the defense?

10 MS. FISH: Good morning, Your Honor. Rebecca Fish on
11 behalf of Mr. DeBorba, who's seated to my left.

12 THE DEFENDANT: Good morning, Your Honor.

13 THE DEPUTY CLERK: And probation?

14 MS. NEUMEISTER: Good morning, Your Honor. Kelley
15 Neumeister on behalf of U.S. Probation.

16 THE COURT: Again, good morning to everyone here
17 today. Let me just organize my things here.

18 So, Mr. DeBorba, we are here today to enter sentencing,
19 and I'm required to enter a judgment or sentencing that is
20 sufficient, but not greater than necessary to comply with the
21 purposes of sentencing. There's a statute that outlines the
22 particular factors that I'm supposed to consider and take
23 into account, and I'll talk about those later.

24 But, first, I'm going to identify the crimes. I'll
25 identify the documents I reviewed, confirm whether or not

1 there are any other documents I should have reviewed that
2 maybe I don't have with me, identify any objections, of
3 course, to any of the information that's been provided, make
4 appropriate findings related to the Presentence Investigation
5 Report, will hear the recommendations for sentencing from the
6 government, from your attorney, from probation as well, and
7 then, of course, you'll have an opportunity to offer any
8 comments that you wish regarding anything that you hear today
9 and what's being proposed as far as sentencing.

10 We'll probably take a recess after all of that to give me
11 a couple of minutes to kind of gather my thoughts and then
12 come out here and make a decision on what should be done.

13 Any questions? Anything that you are uncertain about
14 today?

15 THE DEFENDANT: No, Your Honor.

16 THE COURT: I was going to say, if you do, feel free
17 to ask Ms. Fish at any time. During the sentencing, as well,
18 if I say something or somebody says something and you want to
19 ask your attorney something, just say, "Hey, Judge, can I ask
20 my attorney something real quick?" something like that, okay?

21 All right. The Superseding Indictment was filed on
22 September 6th, 2023. It contains seven counts. Counts 1 and
23 2 are the same type of counts: Unlawful possession of a
24 firearm and ammunition based on being unlawfully present in
25 the United States and in violation of a prior domestic

1 violence no-contact order. Those are filed under Statute
2 18 U.S.C. 922(g)(5) and (8).

3 Count 3 was also for unlawful possession of a firearm
4 based on being unlawfully present in the United States, and
5 that, again, was 922(g)(5) of the statute.

6 Then, Counts 4 and 5 were for false statement during
7 purchase of a firearm, and that's under 18 U.S.C. 922(a)(6).

8 Count 6 was false claim to United States citizenship under
9 18 U.S.C. 911, and then Count 7 is unlawful possession of a
10 firearm silencer under 26 U.S.C. 5861(d) and 5845(a)(7).

11 On February 5th, 2024, a stipulated facts bench trial was
12 conducted, and I found Mr. DeBorba guilty of all seven
13 counts. I'm not going to go over the facts, because there
14 was a lengthy stipulated facts document that was provided,
15 and I'm assuming the parties are familiar with all the facts,
16 of course.

17 For today, I reviewed the Superseding Indictment that I
18 mentioned was filed on September 6th of 2023, the stipulated
19 facts presented at the bench trial, the Presentence
20 Investigation Report that was filed on May 3rd, followed by
21 the sentencing recommendation by probation filed on May 3rd.

22 I've reviewed the government's sentencing memorandum with
23 attachments and then the defendant's sentencing memorandum
24 with the defendant's statement and a report from Dr. April
25 Gerlock. There was also a proposed judgment that was

1 provided that I reviewed.

2 Any documents that I am missing, something that maybe I
3 should have reviewed that the parties may have noted?

4 MR. SHINER: There is, as to the matter of
5 forfeiture. There is a motion for preliminary forfeiture,
6 and I believe the order is before you.

7 THE COURT: Thank you.

8 MS. FISH: Certainly, Your Honor. We agreed on the
9 forfeiture order, and no additional documents relevant to
10 sentencing.

11 THE COURT: Thank you.

12 All right. With regard to the Presentence Investigation
13 Report, Mr. DeBorba, that's a report that was prepared by
14 probation. Have you had a chance to review that with your
15 attorney, Ms. Fish?

16 THE DEFENDANT: Yes.

17 THE COURT: Do you need any more time? Is there
18 anything in there that's maybe an uncertainty and you want to
19 ask your attorney, Ms. Fish, about?

20 THE DEFENDANT: No.

21 THE COURT: Ms. Fish, for the record, you did review
22 that with your client?

23 MS. FISH: Yes, Your Honor.

24 THE COURT: Thank you.

25 I'll note there were some objections identified in the

1 report, and I will just go over those briefly here. One of
2 the objections was as to a statement located at page 4,
3 paragraph 9: "Based on a review of various records, law
4 enforcement believed DeBorba was in possession of fraudulent
5 immigrant documents and fraudulent Social Security
6 documents."

7 Defense indicated that alienage already has been
8 established, and this comment or allegation is irrelevant to
9 the charges. The response from probation was: part of
10 discovery materials and constitutes relevant conduct.

11 I understand the objection, but I am going to overrule the
12 objection and keep that statement in there.

13 The second thing was at pages 6 through 7, paragraph 19.
14 The defense asked to modify the description of the silencer,
15 and from my review, it does appear to meet, technically, the
16 definition of silencer, so I am going to overrule the
17 objection.

18 MS. FISH: Your Honor, may I be heard briefly on
19 that?

20 THE COURT: Sure.

21 MS. FISH: So I'm not -- my concern was that it was
22 sort of overstating the nature of how that item was found.
23 It was found in a state that indicated it had not been used.
24 One end was closed. I do think that's relevant to the
25 seriousness of the offense versus, you know, finding an item

1 that has clearly been used. So, you know, the information I
2 requested be clarified is in evidence, is in the photographs
3 and the stipulated-facts bench trial.

4 THE COURT: So the statement was that a completed
5 silencer was found. That's what I understood, and the
6 government's response was it meets the definition of a
7 completed -- or a silencer that basically is usable, and
8 that's why completed is not, at least from the government's
9 position, not objectionable.

10 MS. FISH: Right, so it's usable versus used, so I
11 was essentially asking the probation department to add the
12 additional relevant facts that, as found, it was indicated it
13 had not been used, if that makes sense, versus, you know, the
14 legal debate about the definition of a silencer.

15 THE COURT: So I don't think I understood that from
16 at least what I read here. It doesn't say that you were
17 asking to add a sentence that says it was not used.

18 MS. FISH: Well, because I'm asking to reflect the
19 evidence. So the evidence indicates that one end was closed,
20 which would be consistent with it not being used. For it to
21 be used, both ends would have holes, essentially, if that
22 makes sense.

23 THE COURT: So I don't disagree right now, based on
24 what I'm reading here, with including something that says it
25 was not used or at least did not appear to be used, but I

1 don't know if I agree with the contention that it's not
2 complete, at least.

3 MS. FISH: Sure, and I apologize for my lack of
4 clarity there. I wasn't necessarily trying to -- I was
5 trying to supplement the description, because the description
6 as is, you know, suggests something that is, you know, in a
7 final state. And I understand the Court's legal conclusion
8 that it's a completed, usable silencer, but I think there's
9 additional evidence that's relevant that demonstrates that
10 nothing had been shot through that item.

11 THE COURT: Okay. So, Mr. Shiner, any objection to
12 an inclusion that says it appeared to have been unused?

13 MR. SHINER: I think we can agree that, although it
14 is a completed silencer and folks use such, there is no
15 evidence that it had been fired, because it had a closed end
16 cap. Normally, as I said, the first shot through a silencer
17 of that type would put a hole through the end cap.

18 THE COURT: Right.

19 MR. SHINER: So it is usable, but that had not been
20 done, at least in the state it was found.

21 THE COURT: Right. So, again, from my perspective,
22 it's a functional silencer, even if it had not been used, but
23 I'm okay with putting in the statement, if we can,
24 Ms. Neumeister, to identify that it had not been fired
25 through or used.

1 MS. NEUMEISTER: Yes, Your Honor. Would it be
2 sufficient to just say, "There is no evidence the silencer
3 had been used"? Is that sufficient?

4 THE COURT: That's fine, yes.

5 MS. FISH: Or that there's evidence it had not been
6 used.

7 MS. NEUMEISTER: Excuse me, yes.

8 THE COURT: That's fine with me, so we will include
9 that.

10 Third objection was, the defense seeks the third point for
11 acceptance of responsibility. It's pointed out that the
12 guidelines state that, for this to be applicable, it's upon
13 motion of the government, and so there is no motion present.

14 Also, it looks like the government identified this case,
15 *U.S. v. Villasenor-Cesar*, 114 F.3d 970, a Ninth Circuit 1997
16 case, that appears to indicate that the government's position
17 about not including this is appropriate or correct, so I am
18 going to overrule that, unless there's something else that
19 you think I'm missing.

20 MS. FISH: Your Honor, nothing more than I provided
21 to probation, which is a separate case where the Ninth
22 Circuit approved it under similar circumstances. Whether the
23 Court imposes a formal guideline production or otherwise
24 accounts for Mr. DeBorba's early notification that he was
25 willing to waive a jury trial and full presentation of

1 evidence, I think, is an important consideration for the
2 Court in recognizing his acceptance of responsibility.

3 THE COURT: I appreciate the comments, but I'm going
4 to overrule the objection, because I don't think it's
5 appropriate at this point given where we're at under the
6 circumstances and, of course, the government's position as to
7 the guideline, so that objection is overruled.

8 Then, finally, the fourth objection that was identified
9 was at pages 10 through 11, paragraph 51. The defense
10 asserts that 19 firearms rather than 20 firearms should be
11 identified.

12 My only basic question is -- I tried to find in the
13 record, at least what I could find, where there was actually
14 identified 20 and that only 19 were charged. I looked at the
15 complaint at -- this is Document Number 2 at page 13,
16 paragraph 21. The complaint says, "approximately 20
17 firearms," end quote. Quote, "approximately 20 firearms,"
18 end quote, were seized. So do we know it was 19 that were
19 actually -- or 20 that were actually located, or was it 19?

20 MR. SHINER: There were 20, and 19 of them were
21 charged in the indictment.

22 THE COURT: Okay. I couldn't find it in the record,
23 so I wasn't sure where to verify it.

24 MR. SHINER: It's reflected in the discovery and
25 exhibits that were attached to the stipulated facts, where,

1 in the actual report, it does itemize 20 firearms that were
2 seized from Mr. DeBorba.

3 THE COURT: Got it. Because what I looked at were
4 the reports you attached to your briefing, and I couldn't
5 find it in those, but I didn't go back and look at every
6 report that was part of the stipulated facts.

7 MR. SHINER: If you look at Exhibit 2 to the
8 government's sentencing memorandum, that is the narrative
9 portion of the arrest report from that date, and on page 2,
10 toward the end of the narrative, it says that they did
11 collect 20 items from --

12 THE COURT: Sorry, which exhibit again?

13 MR. SHINER: Exhibit 2 to the government's sentencing
14 memo.

15 THE COURT: Sentencing memo, all right, Exhibit 2.
16 And what page?

17 MR. SHINER: Page 2. Toward the end of the
18 narrative, it does state that they collected 20 firearms from
19 the gun safe, so rather than giving you pages and pages of a
20 log which also reflects that, I just included the narrative.

21 THE COURT: There it is. I looked at this, and for
22 some reason, when I read it, I don't know why I didn't see
23 that, but I did look at this.

24 So, Ms. Fish, comments on that, then? It does say
25 "collected 20."

1 MS. FISH: Let me look, Your Honor.

2 Your Honor, if the Court finds that's sufficient evidence
3 to include the fact -- I think there's a disparity in the
4 related documents related to that incident here, so I would
5 ask the Court to use the established, agreed, stipulated 19
6 that the Court found he possessed at that time.

7 THE COURT: All right. Thank you. I am going to
8 overrule the objection and leave that language as is.

9 So those were the four identified objections, at least
10 that were contained in the report.

11 Ms. Fish, any other objections at this point to what is
12 contained in the Presentence Investigation Report?

13 MS. FISH: No, Your Honor.

14 THE COURT: All right. And any objections as to the
15 guideline calculations for the guideline custody, basically?

16 MS. FISH: No, Your Honor. The one I think actually
17 the government and myself agreed on was already adopted by
18 the report.

19 THE COURT: Mr. Shiner, any objections from the
20 government to the Presentence Investigation Report at this
21 point?

22 MR. SHINER: No, Your Honor.

23 THE COURT: Okay. So I am going to adopt the
24 Findings of Fact and Conclusions of Law contained in the
25 Presentence Investigation Report, with the minor change that

1 we're making as already identified.

2 So I'm going to try to explain this briefly, and it may
3 not mean anything for anybody but me at this point. The
4 counts were grouped into two groups. Counts 1, 2, 3, 4, 5,
5 and 7 were grouped together, and that grouping had a base
6 offense level of 20, added six for the number of firearms,
7 giving us 26. And then, Count 6, grouped separately, had an
8 eight base offense level, and it remains, then, at 26,
9 because the second group offense level is nine or more levels
10 less than group one.

11 So it's 26, minus two for acceptance of responsibility,
12 which yields a 24 final base offense level based on a
13 criminal history category of III. The guideline range is 63
14 to 78 months of custody. The maximum statutory penalties for
15 Counts 1, 2, 3, 4, 5, and 7, each one is 15 years, and Count
16 6 is a max of three years.

17 Supervised release, the first group maximum is three
18 years, and Count 6, a max of one year. The basic guideline
19 range, when you put that all together, is one to three years.

20 Eligible for probation for one to five years and must
21 impose a fine or restitution or community service. And then,
22 under the guidelines, though, he's not eligible, because it's
23 in Zone D of the sentencing table.

24 The fine range is basically a max of 250,000, but because
25 he's indigent, it's really not applicable, but the special

1 assessment of \$700 total, \$100 for each count, is required.

2 So that's the basics with regards to the guideline
3 calculation and statutory possibility of sanctions or
4 statutory sanctions.

5 I understand the government is seeking 60 months, plus
6 three years of supervised release; probation, 52 months, with
7 three years of supervised release; and defense is asking for
8 five years of probation.

9 So let us hear from the government on its recommendation,
10 and then we'll hear from probation, and then, of course, the
11 defense.

12 MR. SHINER: Thank you, Your Honor.

13 As the Court is likely aware from reviewing the stipulated
14 facts and the PSR, the defendant committed a series of
15 domestic violence incidents. As documented in the reports
16 and the PSR, he punched, slapped, threatened, yelled at,
17 tried to restrain, and spat at his wife. He tried to keep
18 her from leaving on a couple of occasions, and he injured her
19 arm in one, and because of that, he was convicted of fourth
20 degree domestic violence twice in state court, and also
21 because of that, his wife was frightened enough to seek
22 restraining orders against him. There were actually four
23 hearings and two restraining orders in separate proceedings,
24 two separate proceedings in this case.

25 Based on the restraining order, the defendant was not just

1 prohibited, but ordered by a court to not possess any
2 firearms, to relinquish any firearms, and not to acquire any
3 firearms, but despite these repeated orders, the defendant
4 did not relinquish his firearms. He continued over the
5 course of two and a half years to obtain firearms, even after
6 20 firearms were seized from him by police in November 2019.

7 He continued to procure these guns despite being
8 prohibited not just by a restraining order, but by his
9 immigration status. He continued to post about having guns
10 in videos posted on social media and the internet, with him
11 shooting guns. He grew his gun collection to large numbers
12 of firearms, accessories, and parts. He appears to have
13 converted his bedroom into a makeshift firearms workshop. He
14 just would not stop.

15 He threatened his roommates, because they knew him to
16 carry a rifle around in his backpack even after he had to
17 move out of his home with his family and after he had been
18 subject to the restraining orders.

19 He obtained ghost guns, which are unserialized firearms
20 that are untraceable to any particular purchase, gun parts,
21 which he was obviously in the process of assembling in his
22 home workshop. And like I said, this was all done not just
23 while he was prohibited under federal law, but while he was
24 specifically ordered by courts not to possess firearms.

25 The danger inherent in this conduct is significant. It's

1 not just the fact that he'd engaged in violence and that's
2 what led the courts to say he should not have guns. As we
3 know, the unfortunate link between domestic violence and
4 firearms possession, it is the defiance and, frankly, just
5 disregard for federal and state laws and orders of the courts
6 that is so troubling.

7 This is not a case where there's a question about the
8 defendant's knowledge that his conduct had required him to
9 relinquish and not obtain any firearms. He had firearms
10 seized from him in 2019 for this very reason, but he went out
11 and got more. And getting more of them required him not only
12 just to purchase guns or go on the internet and get guns, go
13 to the store and get guns, it required him to fill out
14 transaction forms which he had to knowingly falsify, which he
15 did. It's not just the two that are reflected in the counts
16 of conviction, but the evidence reflects he purchased and
17 procured many firearms over the two and a half years of
18 conduct involved in this case: the 20 that were seized from
19 him during the seizure I mentioned; another from a traffic
20 stop where he was carrying, along with a falsely-procured
21 concealed carry license; but also the guns that were found in
22 the federal search warrant when he was arrested on this case.

23 So, despite federal law, despite the Court's orders,
24 Mr. DeBorba simply decided to -- told himself that he was
25 going to have guns anyway. Don't know why, but it does

1 appear he was somewhat obsessed with firearms ownership.

2 Like I said, this is an inherently dangerous and
3 disturbing situation. Not only did he have handguns, he had
4 rifles, he had ghost guns, he had a 50-round drum magazine
5 for pistols, he had body armor, the silencer we discussed.

6 The pictures in the stipulation reflect a pamphlet for a
7 ghost gun milling machine, which means -- it's a machine that
8 you can use to mill out unfinished firearms or parts, meaning
9 you could purchase parts from anywhere, on the internet or
10 what have you, without any requirement or regulation showing
11 that you are eligible to possess a firearm. You can assemble
12 it at home and have a completed, unserialized, essentially
13 untraceable, homemade, personally-made firearm, and that's
14 what it appears that he was on his way to doing.

15 It's also important to note, apart from the danger he
16 posed to his ex-wife, who was under the false impression at
17 one point that he had relinquished his firearms, that this
18 pattern of evading the law dated farther back than that, in
19 fact, back to the year 2000, approximately, when -- well,
20 back to November 2019, when the first protective order was
21 issued, but also back to the year 2000, when he began to
22 falsify documents in order to overstay his visa and remain in
23 this country.

24 So, essentially, while he is charged with two false
25 statements on firearms transaction records and one false

1 claimed U.S. citizenship on his concealed pistol license, the
2 documents obtained during the search warrants and other
3 investigation in this case indicate he was falsifying Social
4 Security cards, must have made false statements on
5 identification documents, employment documents, all
6 throughout his presence since the expiration of his visa in
7 2020 -- excuse me -- the year 2000.

8 So this is a defendant who essentially exhibited a 20-year
9 pattern of disregard for the laws of the United States. He
10 was continuing defiance of specific court orders issued at
11 hearings where he was present for the purpose of assuring the
12 safety of specific people and members of the public based on
13 his specific actions. For that reason, we are requesting the
14 prison sentence.

15 With regard to the defendant's request for probation, it's
16 hard for me to see how a request for probation makes sense,
17 since, one, Mr. DeBorba has been in custody for just over two
18 years now on this matter, so he's been earning time that
19 should be credited against his sentence today. So not only
20 do the guidelines recommend disallowing probation, but
21 probation cannot, by law, include a term of imprisonment.

22 So what the defendant is doing is asking the Court that
23 his sentence not include that credit for the time he has
24 served in custody prior to the resolution of this case, but
25 instead, they're asking for a time-served sentence of -- or

1 instead of asking for a time-served sentence of two years and
2 three years supervised release, they're asking for a
3 probationary sentence of no credit for time and five years of
4 supervision on probation. So it's hard to see why this
5 proposed sentence makes sense. It actually involves a more
6 significant, longer period of supervision than what the
7 government or probation is asking for, plus a sentence that
8 does not give credit for the time he's served or accurately
9 reflect the seriousness of the conduct.

10 I can only deduce that this is an attempt to make the
11 sentence appear less serious than it actually is in order to
12 benefit him in any collateral and separate and, I would say,
13 irrelevant immigration proceedings that may come after this
14 matter is concluded. But the problem is, he has served two
15 years, and the probation office knows that 100 percent of
16 similarly-situated defendants with similar charges and
17 guidelines calculations -- 100 percent of them were sentenced
18 to a term of imprisonment.

19 What I would suggest to this Court, respecting the fact
20 that you have discretion to sentence as you wish, is we
21 should not be reducing the solemn way or process of imposing
22 sentence in an effort to obtain a favorable outcome in
23 collateral immigration proceedings. They are a separate
24 system for upholding the immigration laws of the United
25 States and are not a part of the punishment that this Court

1 is considering here today.

2 The fact that the defendant may have violated immigration
3 laws in addition to gun laws is, I think, not a reason to
4 give him a more favorable sentence than someone who committed
5 similar offenses, but was not facing immigration crimes or
6 was not unlawfully in the United States at the time of those
7 offenses. Instead, I submit we should be focused on
8 evenhanded and consistent administration of justice in
9 imposing sentences.

10 That evenhanded, consistent approach, I believe, based on
11 the guidelines, probation's calculations, data regarding
12 similarly-situated defendants, and the facts in this case
13 calls for a prison sentence. We ask that, due to the nature
14 and seriousness of the offenses, which include all those
15 inherently-dangerous weapons, including the silencer, which
16 is, under federal law, so inherently dangerous that it's
17 highly regulated and unlawful for any person, even one who's
18 not prohibited from general firearms possession, to obtain
19 those without federal licensure -- these offenses are
20 serious, and there's a need for the sentence to reflect the
21 nature and seriousness of the offense and to promote respect
22 for the law and to protect the public, and that requires the
23 government's recommended sentence.

24 Unless the Court has any more questions, I will submit.

25 THE COURT: No, I don't. Thank you, Mr. Shiner.

1 Appreciate that.

2 Ms. Neumeister, do you have anything further to offer?

3 MS. NEUMEISTER: I don't, Your Honor, unless you have
4 any questions.

5 THE COURT: No, I don't have any questions, so we'll
6 hear from Ms. Fish.

7 MS. FISH: Thank you, Your Honor. I'd like to begin
8 by picking up on something that counsel said: The Court is
9 to think about evenhanded and consistent administration of
10 justice. In no case I've had has a court sentenced someone
11 on a gun charge to years of separation from their children.
12 In no case I've had has a court sentenced someone convicted
13 on a gun charge to permanent exile from the home they've
14 known for their whole adult life. In no case I've had --

15 THE COURT: Although I will say, regardless of the
16 gun charge, per se, the false claim to citizenship, that,
17 really, is what's going to have the biggest impact on his
18 ability under the immigration laws to any kind of benefit, is
19 my understanding.

20 MS. FISH: Your Honor, I believe both -- both have
21 significant -- limit his ability to seek relief.

22 THE COURT: They will both, but under the Immigration
23 and Nationality Act, as I understand it, a false claim to
24 citizenship pretty much makes you ineligible for anything.

25 MS. FISH: Yes, it makes you inadmissible -- well,

1 yes, it makes one inadmissible.

2 THE COURT: Makes you inadmissible; it makes you not
3 able to adjust status; it makes you unable to apply for
4 entry.

5 MS. FISH: Correct.

6 THE COURT: You're pretty much done.

7 MS. FISH: So a false claim to citizenship for the
8 purpose of an immigration benefit is what makes you
9 ineligible for cancellation of removal. A false claim, which
10 is -- a false claim to citizenship for any benefit is what
11 makes a person ineligible for all the things the Court is
12 talking about: admission, adjustment, et cetera. Certainly,
13 that has a significant impact.

14 My point is that the Court, I think, certainly can and
15 should consider the obvious collateral consequences that
16 Mr. DeBorba is going to face as punishment he is receiving
17 that many other people convicted of this crime do not
18 receive. Typically, a person convicted on gun charges in
19 this district receives, you know, some term of imprisonment
20 or jail followed by supervision in this district where they
21 can continue with their community and family supports and try
22 to move forward with their life.

23 It is very rare for someone to -- and I've never seen a
24 court in Your Honor's position sentence someone to
25 banishment. My point is that he is going to face an extreme

1 punishment regardless of any decision the Court makes today,
2 a punishment more severe than prison time, a punishment more
3 severe than any period of supervision, a punishment more
4 severe than any fine. That is something that the Court
5 absolutely can and should consider in deciding what further
6 punishment, if any, is necessary by this Court to achieve the
7 goals of sentencing.

8 The government spoke at length about one of the sentencing
9 factors: the seriousness of the offense. It did not address
10 the many other factors that the Court is to consider, such as
11 Mr. DeBorba's personal history and characteristics. In
12 examining that, it is clear that Mr. DeBorba is someone who,
13 for many years, worked very hard to overcome some significant
14 barriers. For many years, he worked to support his family
15 and to manage anxiety that stemmed from very severe childhood
16 abuse that he suffered and to adapt to a new place.

17 I will say, personally, as a lawyer or not, I take some
18 issue with the government's characterization of, you know,
19 years of defying the law for using, allegedly, something not
20 established as part of the charges actually filed in this
21 case, for someone using documents to work and live and pay
22 taxes in this country. Millions of people do that and often
23 are the backbone of our economy, of our communities, doing
24 some of the most essential and hardest work in our
25 communities. So I think the Court should disregard that

1 claim that that reflects negatively on his character, as
2 opposed to a means of survival that millions of people must
3 resort to to simply provide for their families.

4 And that's what Mr. DeBorba did for well over a decade.
5 He worked hard. He used his skills as a machinist to find
6 work so he could put a roof over the heads of his then wife
7 and his children, to make sure they were fed, to make sure
8 his children could go to school and have all of the resources
9 and support that they needed. All of his children were born
10 in the United States and are United States citizens, and he
11 wanted them to have the best that they could and all the
12 opportunities that he did not personally have.

13 What is clear also is that, in the time that this offense
14 occurred, Mr. DeBorba was dealing with increased anxiety. He
15 was not able to manage his mental health as well as he
16 previously had been and was disconnected from the therapist
17 he'd initially connected with when he lived on the East Coast
18 in Massachusetts. His family had moved to Washington at his
19 former wife's request, where she had connections and family
20 in the area. He found a new job. They developed a new home,
21 but soon, they started the process of separating, and very
22 soon thereafter, the COVID-19 pandemic began.

23 I believe these two crises were quite overwhelming for
24 Mr. DeBorba. It's not to say that all of his actions were
25 justified, but I think, as Dr. Gerlock correctly reasoned,

1 this was a man who was struggling more and more to manage
2 that PTSD, that anxiety, those emotions he didn't know how to
3 deal with.

4 I hired Dr. Gerlock specifically because of her
5 experience. As the Court can tell from her CV, she is not
6 someone who is new to domestic violence dynamics. Rather,
7 it's been her career focus and a focus of treating folks who
8 have been involved in domestic violence situations for years
9 and trying to promote community safety. She spoke of
10 Mr. DeBorba at length. She reviewed the records, and she's
11 aware of everything going on in his case, and she opined that
12 she did not think that he indicated any symptoms that would
13 give her pause about him causing an imminent danger to
14 others.

15 Mr. DeBorba understands now why his actions caused others
16 fear, and he is incredibly sorry for that. I think, at the
17 time, he certainly did not appreciate how much fear his
18 failure to rid himself of weapons caused to others.
19 Obviously, we've reviewed discovery in this case and
20 discussed the reasons, you know, for much of the policy
21 around the laws in question during the motions practice, and
22 Mr. DeBorba understands that his actions caused fear to some
23 of the people he cares most about in the world, and he is
24 incredibly sorry about that, as expressed in his own letter
25 to the Court.

1 He also recognizes that he needs to find or re-find the
2 best way for him to manage his PTSD and anxiety going forward
3 in a way that is healthy that does not cause harm or fear to
4 others, and he has done what he can to do so while he's been
5 detained over the past two years. He has worked with the
6 psychologist at the FDC. Despite how difficult that can be
7 given the understaffing, he has sought out help, and he has
8 taken prescribed medications.

9 Unfortunately, their ability to engage in one-on-one
10 counseling, which is also incredibly beneficial, is very
11 limited, so he has sought out Bible study as another positive
12 form of him having that kind of therapeutic environment to
13 think through issues and to work through emotions.

14 Mr. DeBorba is not done, you know, with this work. He
15 knows it will be lifelong, as expressed in his own letter,
16 and the next steps for him are likely to continue to be very
17 difficult. His time at the Federal Detention Center over the
18 past two years has been more difficult than a similar amount
19 of time would have been served in a typical post-conviction
20 prison. This is partially due to, early on, some of the
21 ongoing COVID restrictions and, more recently, due to the
22 severe understaffing that the Federal Detention Center has
23 experienced.

24 Because of this, people who are on pretrial units are not
25 able to engage in programming and have very limited other

1 opportunities, so it's been extremely difficult, hard time
2 that I don't think is contemplated by the guideline range,
3 and I think all the parties here recognize the guidelines
4 here are rather higher than necessary for this case.

5 The reason for my recommendation, Your Honor, is to
6 address the primary concern that was raised by probation and
7 the government, which was safety of the community, and I
8 understand that concern. So the reason for me recommending
9 probation rather than supervised release is the Court can
10 have a longer time on probation after any sentence --

11 THE COURT: Is it not related to immigration issues?

12 MS. FISH: No, Your Honor. The convictions here, as
13 they stand, you know, are going to preclude him from
14 cancellation of removal, period, and something he would
15 otherwise be eligible for due to --

16 THE COURT: How old is his oldest child?

17 MS. FISH: I believe his oldest is now 17, so in a
18 few years, under normal circumstances, he would be eligible
19 for adjustment. However, the convictions here, should they
20 stand up with the Ninth Circuit, will preclude him from that
21 regardless of what sentence is imposed. If the Ninth Circuit
22 reverses the convictions, similarly, you know, the sentence
23 would be reversed as well, so it doesn't make any impact one
24 way or the other, really, on his present status. What makes
25 an impact is the judgment, itself.

1 The reason I proposed that is I anticipate he will spend a
2 long time in immigration custody in the best-case scenario.
3 In the best-case scenario, if he gets an immigration judge
4 who is willing to delay his removal hearing to allow his
5 criminal appeal to go forward and await the result of that,
6 he'll be in detention. With the gun convictions in this
7 case, as I cited, he's likely, absent an extremely creative
8 argument that I cannot see at the moment from an attorney
9 helping him, he's likely to be detained and ineligible for
10 release due to the conviction and in immigration custody.

11 So, under the best-case scenario for Mr. DeBorba, if an
12 immigration judge is willing to allow him to wait for the
13 result of his criminal appeal, he'll be in custody for months
14 or years after today, and in a less-good scenario, he'll
15 still likely be in custody for months if a judge elects to
16 deport him promptly. He'll still likely be in custody for
17 months awaiting a transport flight and then will be in a very
18 difficult place of having to learn to live a life he never
19 lived, really, to have to navigate a country he hasn't lived
20 in for decades, that he primarily knew only as a child and
21 where his father has passed away and his mother is in very
22 poor health. He just doesn't have the kind of supports he
23 had when he lived there last. So, in either scenario, he's
24 in for a difficult road.

25 My reasoning for recommending probation rather than time

1 served in supervised release is that it gives the Court extra
2 time should he, by some strange miracle, be successful in
3 immigration court. It would give the Court additional time
4 with supervision to ensure the safety of the community, and
5 it also gives the Court additional time where the Court would
6 be notified should there be any unlawful entry or other
7 police contact that would be of concern to the Court, so
8 that's the reason. It's to address -- because I recognize my
9 custodial recommendation, whether on paper or practically, is
10 lower than that of probation and the government, but that
11 would give the Court additional time, essentially, with some
12 oversight of Mr. DeBorba.

13 Ultimately, I don't think that keeping him in custody for
14 an additional two or three years is going to substantially
15 further any of the goals of sentencing. He takes this very
16 seriously. It obviously has extremely serious consequences
17 for him regardless of any additional punishment this Court
18 imposes.

19 You know, I didn't mention, obviously, he left all of his
20 belongings. He has nothing left. He lost his home and all
21 of those things that frequently happen when a person is
22 arrested, in addition to the immigration consequences he
23 faces. I think that, you know, certainly, two years in
24 difficult custody absolutely has impressed upon him, and
25 would impress upon anyone, why the government takes this

1 conduct seriously and why it was harmful to the community and
2 particularly to his family.

3 Looking at the other goals of sentencing, at deterrence,
4 at rehabilitation, at the safety of community big picture, I
5 mean, those will best be advanced by Mr. DeBorba being able
6 to engage with appropriate trauma and mental health
7 treatment. And I think that those also -- unfortunately, the
8 staffing crisis at the FDC, while acute here, is still a
9 problem nationwide.

10 I looked recently, and I think, as recently as February,
11 the Bureau of Prisons director was testifying to Congress
12 about the staffing shortages, and one of the issues that
13 comes up with the staffing shortages is that people who are
14 hired to be nurses, to be teachers, to be in roles that are
15 meant to provide programming, treatment, or enrichment to
16 people detained, are being asked to basically serve as patrol
17 officers because they're so short-staffed, so that
18 programming becomes less available.

19 So, while he might, I would hope, if he's sentenced to
20 additional time, receive some opportunity to engage in better
21 programming along the lines of what Dr. Gerlock recommended,
22 some other things she recommended just aren't available in
23 the BOP. There's no victims panel. There's no specific DV
24 or family relationship training. Others -- there's CBT.
25 There's some other programs that are available, and I would

1 hope he'd get to engage in some of those, but the
2 availability is somewhat limited.

3 The best program for folks -- for men who have experienced
4 significant trauma, the Resolve Program, is of limited
5 availability. This is anecdotal, not statistical, but when
6 I've tried and I have no one opposed and the Court has
7 recommended designation to a facility where my client can
8 participate in those programs, in the last few years, none
9 have been successful.

10 So, you know, I'm not sure what additional years in
11 custody would achieve for Mr. DeBorba, other than to increase
12 his depression and potentially make it harder for him in the
13 future to engage in appropriate treatment. He's in a very --
14 particularly, given the circumstances he's facing, I think he
15 has the best outlook he can, which is recognizing what he
16 needs to do to make himself better and to be able to be a
17 support in any way that he can for his children going
18 forward, and that is his focus. And he has held on to that,
19 you know, as a way to make sure that he's doing okay and that
20 he can do all the positive things he needs to do to manage
21 his mental health and think about the future, but three more
22 years in prison, I worry that he won't be able to hold on to
23 that resolve forever.

24 So I would ask the Court to fashion a sentence that
25 recognizes the immense, immense collateral consequences he is

1 dealing with and that really does focus on promoting the
2 goals of sentencing. I think that the time he's served
3 already and the consequences he will face are more than
4 sufficient punishment for the conduct, which he recognizes is
5 serious, and he does understand and has really come to
6 appreciate through the course of this case why it was so
7 frightening to other people and something that should not
8 happen.

9 But looking to the other goals, I just don't see prison
10 time serving any of those, so I would ask the Court to
11 impose -- whether the Court wants to do a time-served
12 sentence followed by supervised release with a shorter time
13 for the Court to supervise Mr. DeBorba, or if the Court
14 follows my recommendation of a five-year probationary
15 sentence, I think that sentence that kind of allows him to
16 move forward from today with all the other consequences he
17 will face is appropriate.

18 THE COURT: All right. Thank you, Ms. Fish.

19 Mr. DeBorba, this is your opportunity to offer any
20 comments you wish, but before you do that, I just want to
21 Google something on my mind, so just give me one second.

22 MR. SHINER: When it's appropriate, I have some
23 comments in response, if that's okay.

24 THE COURT: Yes.

25 MR. SHINER: Would you like me to proceed now, Your

1 Honor?

2 THE COURT: No, one second.

3 MR. SHINER: Okay.

4 THE COURT: I just wanted to look up the issue about
5 false claim to citizenship and see if I can find the
6 Immigration and Nationality Act statutes, and of course, I
7 can find a summary, but not the actual statutes, so I don't
8 know if I can rely on this. But at least the summary says,
9 "Inadmissibility: Individuals who make a false claim to
10 citizenship on or after September 30th, 1996, for any benefit
11 or purpose under federal or state law are inadmissible," if
12 that's accurate.

13 MS. FISH: I believe that's correct, Your Honor.
14 It's the false claim for immigration benefit that impacts
15 only cancellation eligibility. So I agree with the Court on
16 the inadmissibility, which, obviously, would be another
17 avenue -- but for the judgment in this case -- he would have
18 to potentially pursue.

19 THE COURT: Either way, there are undeniable
20 challenges to get cancellation or removal. There's other
21 requirements, including establishing moral character, which I
22 don't know if that's really --

23 MS. FISH: Yes, Your Honor, and I agree. I believe
24 that the additional convictions in this case -- you know, the
25 false claim would be a CIMT, which would make him ineligible

1 for that -- the firearms charges would make him ineligible
2 for that. But I agree with the Court that, for other
3 reasons, other criminal grounds, the convictions here make
4 him ineligible.

5 THE COURT: Okay. Mr. Shiner.

6 MR. SHINER: Just briefly, and those comments lead
7 into what I was going to say, which is, I made my comments
8 about immigration not to say whether the Court should be able
9 to predict the outcome of the immigration proceedings, but
10 counsel, I think, maybe misunderstands or mischaracterizes my
11 position by saying she's never seen a court sentence someone
12 to exile from their family. That is not what the Court is
13 doing. The Court, itself -- and I glean from both the Court
14 and counsel's comments that we are all in agreement that the
15 immigration proceedings are going to be challenging for him.
16 The Court is imposing a sentence that is intended as
17 punishment for the crimes. Immigration proceedings are not
18 punishment for these offenses. They may affect his ability
19 to maintain residency here, but they are intended for the
20 administration of the U.S. Immigration Laws and who is
21 eligible and who is not to remain as a non-citizen.

22 So that is why I believe it should not be the primary
23 driver of the sentence in this case. Rather, the primary
24 driver should be, as I think probation and the government
25 agree, the nature of the offenses and the seriousness of the

1 conduct. This is not a case, like many that come before
2 these courts, where a person's immigration status is, as
3 counsel hinted at, the product of someone coming into this
4 country because they had no ability to make a living in their
5 home country. There is no indication of that in the record,
6 and the probation report does not seem to indicate that.

7 The defendant came here with his mother and father as part
8 of a ministry in 1999 on a temporary Visa. His mother and
9 father returned to Brazil. The defendant could have done so,
10 as well. There's no indication he could not have been living
11 back there with his parents and extended family. Instead, he
12 made the conscious decision to stay through obtaining
13 fraudulent identity documents.

14 So I'm sure there are many people who could be considered,
15 as the term is phrased, "economic migrants." There's no
16 indication that's the case here, so to the extent that his
17 status in immigration proceedings are weighing on the Court's
18 mind, this does not -- should not have the weight it would
19 have in the cases that counsel was describing.

20 THE COURT: All right. Thank you, Mr. Shiner. I
21 appreciate those comments.

22 Ms. Fish.

23 MS. FISH: Very briefly, Your Honor. I would just
24 note, you know, certainly, people immigrate for various
25 reasons, but I think, as is clear from the various documents

1 we've submitted, you know, Mr. DeBorba and his family faced
2 discrimination in his home country based on their religion.
3 He had a lot of difficult things going on there for him
4 besides just work, which was hard to find, although he was
5 working and trying to make a living. So I think there are
6 other reasons, including the desire to practice your religion
7 freely, to be free from that type of discrimination, that
8 people may not want to return.

9 THE COURT: All right. Thank you.

10 Okay. Mr. DeBorba, as was mentioned earlier, at this
11 point, this is your opportunity to offer any comments that
12 you wish. You don't have any obligation to do so, but I
13 certainly am open to hearing from you and any comments that
14 you wish to offer.

15 THE DEFENDANT: Yes. Thank you for the opportunity.

16 THE COURT: And you are fine to sit down. It's fine
17 to sit down. Thank you.

18 THE DEFENDANT: I want to talk to all of you, and
19 Mr. Shiner also. I'm really, really sorry for the actions
20 that I took. Never did I intend -- I know there's things
21 that I might not say or should say or not, but I never had
22 any intent to harm no one.

23 Mr. Shiner probably came from a background of law
24 enforcement. I don't know if it is. That's one thing, also.
25 Law enforcement, I don't have a grudge against them. I never

1 intended to hurt anyone. I am actually thankful for them,
2 because I know they keep the community safe, and my kids. I
3 just want -- I -- that's all that I can say. Thank you.

4 THE COURT: All right. Thank you, Mr. DeBorba.

5 Okay. I am going to go take a couple of minutes here and
6 think about this a little bit more. I will be back out here
7 in a few minutes.

8 Before I do that, though, I am going to go ahead and sign
9 this preliminary order of forfeiture. I am going to thumb
10 through and just see -- this is a standard order, right?
11 There's nothing weird about this particular order? I've seen
12 them before.

13 MS. FISH: Nothing I'm aware of. Mr. Shiner allowed
14 me to review it beforehand.

15 MR. SHINER: No, Your Honor. And to be clear, it
16 reflects only those firearms that are cited in the offenses
17 of conviction. We will be filing a separate agreement for
18 abandonment of other firearm-related items.

19 THE COURT: All right. So I will sign this order.

20 As I said, I'll be back in just a few minutes.

21 (Recess.)

22 THE COURT: Thank you, everyone. Please be seated.

23 I forgot to ask: All those standard conditions and
24 mandatory and special conditions, did you have a chance to
25 review all of those, Ms. Fish?

1 MS. FISH: We did, Your Honor. We reviewed those
2 prior to today's hearing.

3 THE COURT: Do you have any objections to any of
4 those conditions?

5 MS. FISH: I don't believe I did, Your Honor,
6 recognizing the potential, essentially, for supervision to be
7 limited if he is deported, but I think the conditions
8 contemplate that.

9 THE COURT: Okay. Thank you.

10 So, Mr. DeBorba, I think I mentioned earlier that there
11 are a number of factors that need to be considered in
12 arriving at sentencing, and the statute identifies those
13 factors. That statute is 18 U.S.C. 3553(a), and that statute
14 indicates the Court is to impose a sentence that is
15 sufficient, but not greater than necessary to reflect the
16 seriousness of the offense, to promote respect for the law,
17 to provide just punishment for the offense, to afford
18 adequate deterrence to criminal conduct, to protect the
19 public from further crimes from the defendant, and to provide
20 the defendant with needed educational/vocational training,
21 medical care, or other correctional treatment in the most
22 effective manner.

23 The Court must also consider the nature and circumstances
24 of the offense and the history and characteristics of the
25 defendant, the kinds of sentences available, the sentencing

1 guidelines that we reviewed, of course, and then, also,
2 should be considering the need to avoid unwarranted
3 sentencing disparities among similarly-situated defendants.

4 First, the nature and circumstances of the offenses and
5 the seriousness of the offenses, there's no doubt these are
6 serious offenses. In particular, I guess because of the
7 history with regard to the domestic violence and relationship
8 with your ex-spouse, you know, the record shows that there
9 were prior orders ordering you not to have any type of
10 firearms, and yet those orders were disregarded.

11 And of course, I don't know what the full range of the
12 history between you and your ex-spouse is or was, but based
13 on what was provided, it shows there was some volatility
14 there, and again, whose fault it is, I don't know, but in the
15 end, there definitely was some volatility between you and
16 your ex-spouse. And when somebody has access to guns and
17 there is this volatility, even though individuals may not
18 have any intent to do any harm, it's just a bad mixture. You
19 don't know. You don't know. And especially when somebody
20 might have some prior mental health issues that come into
21 play, that volatile situation can lead to who knows what.

22 And then, of course, with regards to some of these
23 firearms not having any type of -- I think they're considered
24 ghost guns, some of them. You know, they get stolen,
25 something happens to them, they're transported and delivered

1 to somebody else, they're in the community, they're not
2 traceable, and that just makes it a very dangerous situation
3 for the community as a whole, quite frankly. So, again, no
4 doubt these are serious offenses.

5 You know, there's this debate between the government and,
6 of course, you and your attorney about to what extent should
7 the Court consider the collateral consequences. There's no
8 doubt in my mind there are collateral consequences for you as
9 a result of these offenses, and forgive me if I'm sounding
10 harsh, but, honestly, I don't see much hope for your ability
11 to obtain some type of immigration benefit in the future
12 given, currently, the convictions. And even without the
13 convictions, an immigration official may use the history of
14 your file and all of these reports -- again, please forgive
15 me for being harsh, but I really don't see much hope that you
16 will get a benefit from immigration officials at some point
17 in the future. I could be wrong. I definitely could be
18 wrong, but there are some serious challenges that you face
19 regardless of these convictions, quite frankly.

20 So should we consider those to some extent? Arguably,
21 under the history and characteristics of the defendant
22 factor, those are some things to be considered and
23 identified, but should they be the defining factor? I don't
24 know that they're the defining factor that the Court should
25 take into consideration, because some of these other factors,

1 of course -- there's the seriousness of the offense,
2 promoting respect for the law, and then these other factors,
3 such as adequate deterrence, and it's not just for yourself,
4 but adequate deterrence for others to make sure others are
5 aware, look, if you are ordered not to have firearms,
6 especially under a domestic violence order, and you continue
7 to have firearms, there needs to be consequences for that.
8 People should understand that they have to respect the law,
9 and not just yourself, but others that may view this at some
10 point in the future, to understand what the consequences are.

11 So I am taking all those things into consideration, and I
12 am considering also the immigration issues, as well. And I
13 recognize, again, the challenges you face, but taking all
14 those factors into consideration, I believe an appropriate
15 sentence in this case would be 30 months of custody followed
16 by the three years of supervised release.

17 I'm required to impose a \$700 special assessment, \$100 for
18 each count. I am not going to impose any fine, of course, in
19 light of your current indigency. The \$700, though, is due
20 immediately and should be paid to the Clerk of the United
21 States District Court for the Western District of Washington.

22 I do believe that this sentence I'm imposing is reasonable
23 and sufficient, but no more than necessary to carry out the
24 objectives of sentencing as required under 18 U.S.C. 3553(a).
25 You, of course, will get credit for the approximate two years

1 now that you've been in custody. So that leaves, you know,
2 whatever that calculates out to, another five or six months,
3 but again, I don't know what the official calculation is
4 given the time line that you have been in custody.

5 Mr. Shiner, do you have a judgment we can present to
6 Ms. Fish for entry?

7 MR. SHINER: I do, Your Honor.

8 MS. FISH: Your Honor, for the record, I did review
9 the judgment, and I believe it conforms with the Court's
10 ruling.

11 THE COURT: Thank you. So I've signed the Judgment.
12 It is going to be entered.

13 For the record, do either counsel have any objections not
14 previously voiced to the ultimate findings I've made today,
15 the guideline calculations, the sentence, or the manner in
16 which I have pronounced it? If so, objections should be
17 identified at this time, or they may be considered to have
18 been waived.

19 MS. FISH: No further objections, Your Honor.

20 MR. SHINER: Nothing further, Your Honor. Thank you.

21 THE COURT: Thank you.

22 So, Mr. DeBorba, if you wish to appeal the sentence, which
23 I understand you will be, but it's very important that, of
24 course, you talk to your attorney and instruct her that is
25 what you want to do. Your attorney, of course, can explain

1 what issues are appealable.

2 If you wish to appeal the sentence, but cannot afford the
3 filing fee for the Court of Appeals, you can ask me to waive
4 that fee, and the Clerk of the Court will prepare and file
5 the notice of appeal upon your request.

6 With few exceptions, any notice of appeal must be filed
7 within 14 days of entry of judgment, and I have no reason at
8 this time to doubt your attorney's effectiveness, but you
9 also obtain the right to challenge your counsel's
10 effectiveness.

11 You also have the right to file an appropriate motion
12 pursuant to 28 U.S.C. 2241 to address the conditions of your
13 confinement or the decisions of the Bureau of Prisons
14 regarding the execution of your sentence.

15 Mr. DeBorba, do you have any questions at this time for
16 either myself or that you want to ask your attorney about
17 before we conclude today's proceedings?

18 THE DEFENDANT: No, Your Honor.

19 THE COURT: All right. Mr. DeBorba, that concludes
20 today's proceedings. I do sincerely wish you the best of
21 luck. Although you may not agree with the sentence, of
22 course, please do know that this is not something that --
23 again, it's not a pleasure that I'm taking in any form or
24 fashion by entering today's judgment, so again, good luck to
25 you. I wish you the best of luck.

1 THE DEFENDANT: Thank you, Your Honor.

2 THE COURT: Thank you.

3 (Adjourned.)

4
5
6
7 C E R T I F I C A T E

8
9
10 I, Sheri L. Schelbert, RMR, CRR, do certify that the
11 foregoing is a correct transcript, to the best of my ability,
12 from the record of proceedings in the above-entitled matter.

13
14
15 /s/ Sheri Schelbert

16 Sheri Schelbert

CHIEF JUDGE DAVID G. ESTUDILLO

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,)	No. CR22-5139-DGE
Plaintiff,)	
v.)	JOÃO DEBORBA'S SENTENCING
)	MEMORANDUM
JOÃO RICARDO DEBORBA,)	
Defendant.)	

Mr. DeBorba is sincerely sorry for his conduct here. In his own words, Mr. DeBorba affirms: "I feel terribly sorry for the mistakes that I did because I know they affect, of course, my wife, my children, and the other loved ones. I understand that my actions frightened people, and I'm so sorry for this." Ex. B. Mr. DeBorba understands the seriousness of his conduct. And he has and will continue to suffer very serious consequences because of it. Given the over two years he has spent in difficult pretrial detention, the further time he will likely spend in immigration detention, and his expected deportation and separation from his children as a result of the Judgment in this case, no further custodial sentence is necessary. Instead, Mr. DeBorba, through counsel, respectfully asks the Court to sentence him to five years of probation.

JOÃO DEBORBA'S SENTENCING MEMORANDUM
(*United States v. DeBorba*; CR22-5139-DGE) - 1

FEDERAL PUBLIC DEFENDER
1331 Broadway, Suite 400
Tacoma, WA 98402
(253) 593-6710

1 **I. MR. DEBORBA’S HISTORY, THE FACTS OF THIS OFFENSE, AND**
2 **THE COLLATERAL CONSEQUENCES THAT WILL RESULT FROM**
3 **THE JUDGMENT IN THIS CASE ALL INDICATE A MITIGATED**
4 **SENTENCE.**

5 Consideration of “the nature and circumstances of the offense and the history
6 and characteristics of” Mr. DeBorba makes clear that a lengthier term of incarceration
7 is not necessary. Mr. DeBorba is sincerely remorseful for his actions. Although he had
8 no intent to harm or frighten anyone, he recognizes that he did just that.

9 Mr. DeBorba has long dealt with anxiety from adverse experiences in his
10 childhood. For decades, he worked hard to support his family and to hold his anxiety at
11 bay. At the time of this offense, his mental health was particularly strained following a
12 separation from his spouse and later the COVID-19 pandemic. Since his arrest, Mr.
13 DeBorba’s anxiety has further increased as he has dealt with this case through difficult
14 jail conditions. Mr. DeBorba litigated meritorious motions in his case in hopes of
15 preserving any ability to see and support his children in the future. He has nonetheless
16 accepted full responsibility for his conduct.

17 Following any sentence in this case, Mr. DeBorba will be brought to
18 immigration detention. And absent (or until) a different resolution of his pretrial
19 motions by the Court of Appeals, it is a virtual certainty he will be deported and
20 separated from his children for the foreseeable future. These circumstances indicate no
21 need for further incarceration beyond the approximately two years that Mr. DeBorba
22 has already spent in custody.

23 **A. Mr. DeBorba lives with significant anxiety from trauma in his youth.**

24 Mr. DeBorba remembers parts of his childhood with immense fondness. But
25 other parts have haunted him for decades. Mr. DeBorba grew up in a small city in
26 Brazil. He was the oldest of his parents’ two children, and both of his parents worked
hard to provide for him and his sister. Mr. DeBorba’s mother worked in a pharmacy and

1 later a small office supply store. His father worked in a machine shop for most of his
2 life, a career Mr. DeBorba would later follow.

3 Mr. DeBorba's parents were Pentecostal Christians, and he grew up in the
4 church. Indeed, his father was the pastor of their church. While the church itself was
5 generally a positive for Mr. DeBorba, Pentecostalism was a minority religion in Brazil,
6 and Mr. DeBorba and his family faced discrimination due to their religion. *See* Pew
7 Research Center, *Report: Brazil's Changing Religious Landscape* (July 18, 2013),
8 [https://www.pewresearch.org/religion/2013/07/18/brazils-changing-religious-](https://www.pewresearch.org/religion/2013/07/18/brazils-changing-religious-landscape/)
9 [landscape/](https://www.pewresearch.org/religion/2013/07/18/brazils-changing-religious-landscape/) (among other statistics, in 1970, approximately 92 percent and in 2000,
10 approximately 74 percent of Brazil's population were Catholic). Mr. DeBorba
11 specifically was mocked and bullied because of his religion. He was small in stature,
12 and became a favorite target of other children, experiencing frequent beatings,
13 intimidation, and teasing from his peers.

14 While this bullying became a source of immense stress for Mr. DeBorba, he had
15 bigger threats to worry about. Mr. DeBorba experienced serious abuse multiple times
16 during his childhood.¹ Mr. DeBorba was too afraid to tell his parents. While he loves
17 his parents, he also experienced some neglect at home, as well as emotional and
18 physical abuse² by his mother, who struggled with her mental health. Mr. DeBorba tried
19 instead to bottle up his emotions. Unfortunately, the type of trauma that Mr. DeBorba
20 experienced cannot simply disappear or be willed away. He began to experience
21 significant depression and anxiety. Indeed, he developed a serious ulcer at age 13. Mr.
22 DeBorba has experienced suicidal ideations in his life, including prior attempts. These

23 ¹ Described in further detail in Sealed Ex. A and the Pre-Sentence Report (PSR).
24

25 ² As indicated in the PSR, Mr. DeBorba's experiences conform to those that the
26 Adverse Childhood Experiences (ACE) metric characterizes as abuse or maltreatment,
even though Mr. DeBorba himself did not view his mother's actions as abusive.

1 childhood traumas contributed to Mr. DeBorba's present severe Post-Traumatic Stress
2 Disorder (PTSD), extreme Depression, and Anxiety Disorder. *See* Sealed Ex. A at 11–
3 13.

4 Despite these challenges, Mr. DeBorba persevered. His fondest memories of
5 childhood are spending time with his father. He and his father went camping, hunting,
6 and sport-shooting together. These times engaged in outdoor activities with his greatest
7 supporter eased Mr. DeBorba's anxiety, even if temporarily. Mr. DeBorba worked hard
8 in school and followed in his father's footsteps once he reached adulthood, finding
9 work as a machinist.

10 **B. In adulthood, Mr. DeBorba worked hard to provide and care for his**
11 **children.**

12 While Mr. DeBorba was still a young adult, he again followed in his father's
13 footsteps, this time to the United States. Mr. DeBorba's father was invited to help a
14 pastor in Massachusetts set up a new Pentecostal Church, and he asked Mr. DeBorba to
15 join. Mr. DeBorba intended only to stay a few months to help his father.

16 However, Mr. DeBorba found a community—one where he felt he fit in—in
17 Massachusetts. He was no longer the target of bullying, isolated by a minority religion.
18 He was part of a community building a Church together. Soon, Mr. DeBorba met his
19 ex-wife. He found steady work as a machinist, and the two started a family together.
20 Mr. DeBorba remained in Massachusetts, though his father returned to Brazil.

21 Mr. DeBorba continued to struggle with his mental health. While living in
22 Massachusetts, he was able to enroll in counseling and for the first time opened up
23 about his traumatic childhood experiences. He found this therapy immensely helpful.
24 And for many years, Mr. DeBorba lived the life he had always hoped for—a quiet life
25 focused on family.
26

1 Mr. DeBorba again followed his father's example—in parenting. His children
2 were and are his highest priority. He worked hard to ensure they had all the resources
3 they needed, and he also made sure to spend as much time as he could with them. He
4 tried to give them a wonderful childhood—one where they could enjoy the outdoors, be
5 supported in school, and have all the opportunities they wanted.

6 In 2018, Mr. DeBorba's life changed significantly. First, his then-wife decided
7 she wanted the family to move to Washington. She knew people in Washington, though
8 Mr. DeBorba did not. Nonetheless, he agreed to the move. This meant finding a new
9 place to live, a new job, and transitioning their children to new schools. Mr. DeBorba
10 worked hard to make the transition successful. But, with all these changes, Mr.
11 DeBorba was not able to continue his mental health counseling.

12 The same year, Mr. DeBorba lost his father. Mr. DeBorba had remained in
13 contact with his father despite living far apart. His father remained his greatest
14 supporter and a source of strength and calm. But toward the end of his life, Mr.
15 DeBorba's father was diagnosed with Alzheimer's. It was difficult for Mr. DeBorba to
16 support him from afar, but he did not stop trying. Then, months after his diagnosis, Mr.
17 DeBorba's father fell and suffered a fatal head injury. The loss devastated Mr. DeBorba
18 and remains a source of grief and guilt to this day.

19 Mr. DeBorba's mental health took a turn for the worse. He was prescribed
20 medication but did not receive sustained therapy. His marriage also began to
21 deteriorate, and he and his wife began divorce proceedings. During this time, Mr.
22 DeBorba was arrested on domestic violence charges and ultimately pled guilty to
23 misdemeanors. He and his wife separated and he lived in a separate apartment, with
24 limited time with his children.

1 **C. Mr. DeBorba is very sorry for his conduct here—though he had no**
2 **intent to harm anyone, he recognizes the alarm his actions caused.**

3 Mr. DeBorba is very sorry that he possessed guns. As is undisputed, he never
4 used the firearms to harm or threaten anyone. He had no intent to do so. And, as
5 experienced psychologist April Gerlock, Ph.D., explained, “Mr. DeBorba did not
6 express any threats or anger towards his former wife. He did not make statements or
7 behave in a manner that would suggest danger towards her.” Sealed Ex. A at 14.
8 Nonetheless, Mr. DeBorba recognizes that his actions caused alarm and fear, and he is
9 truly remorseful for causing others this distress.

10 He also apologizes for letting his children down. Due to his arrest and
11 incarceration here, Mr. DeBorba has been separated from his children. As Dr. Gerlock
12 noted, Mr. DeBorba’s mental health has deteriorated since his incarceration. Sealed Ex.
13 A at 13. This has certainly been painful for Mr. DeBorba, but his concern remains
14 focused on his children. He is sorry that he has not been able to support them and care
15 for them due to his actions here.

16 **D. Mr. DeBorba faces virtually certain deportation and separation from**
17 **his children as a result of his convictions here.**

18 Mr. DeBorba litigated motions to dismiss the charges against him, which make
19 him ineligible for relief from deportation. *See* Dkts. 36, 53, 56, 62. This decision is
20 unsurprising, given the disproportionate stakes that conviction on these charges present
21 for Mr. DeBorba. The Supreme Court has repeatedly held that “[p]reserving the
22 client’s right to remain in the United States may be more important to the client than
23 any potential jail sentence.” *Padilla v. Kentucky*, 559 U.S. 356, 368 (2010) (quoting
24 *I.N.S. v. St. Cyr*, 533 U.S. 289, 322 (2001)). Mr. DeBorba’s Motions raised live
25 constitutional issues, which the Ninth Circuit has recently recognized as a basis to
26 reverse convictions. *See United States v. Duarte*, No. 22-50048, 2024 WL 2068016, at
 *2 (9th Cir. May 9, 2024) (reversing conviction under § 922(g)(1) while rejecting and

1 parsing many of the arguments relied on the government here). After this Court denied
2 Mr. DeBorba's Motions to Dismiss, he stipulated to facts and evidence and waived his
3 right to a jury trial, accepting full responsibility for his conduct.

4 To pursue his only chance of avoiding exile from his children for the foreseeable
5 future, Mr. DeBorba waited in jail for over two years. *See* Dkts. 2, 6 (Mr. DeBorba was
6 arrested on May 6, 2022). His arrest interrupted his albeit limited mental health
7 treatment, and he had to persevere without his needed medications for months. *See*
8 Ex. A at 5. Mr. DeBorba has not had access to meaningful programming during this
9 time and has had scant opportunities for mental health care beyond medication due to
10 the jail's severe understaffing. *See* Nina Shapiro, *SeaTac Federal Detainees Grow*
11 *Desperate Amid Lack of Medical Care*, Seattle Times (Feb. 26, 2024),
12 [https://www.seattletimes.com/seattle-news/law-justice/seatac-federal-detainees-grow-](https://www.seattletimes.com/seattle-news/law-justice/seatac-federal-detainees-grow-desperate-amid-lack-of-medical-care/)
13 [desperate-amid-lack-of-medical-care/](https://www.seattletimes.com/seattle-news/law-justice/seatac-federal-detainees-grow-desperate-amid-lack-of-medical-care/). Mr. DeBorba also experienced harassment and
14 threats due to misinformation spread about the charges against him. Mr. DeBorba has
15 engaged in bible study to see his way through this exceedingly difficult period of
16 detention.

17 When the Court enters judgment in this case, Mr. DeBorba will become
18 ineligible for relief from deportation that might otherwise be an option for him. *See*
19 8 U.S.C. § 1101(a)(43)(C); 8 U.S.C. § 1227(a)(2)(E)(ii); 8 U.S.C. § 1182(a)(2)(A)(i)(I);
20 8 U.S.C. § 1182(a)(6)(C)(ii). Probation has confirmed that Immigration and Customs
21 Enforcement (ICE) has a detainer for Mr. DeBorba, so he will be brought to ICE
22 detention whenever he is released from custody on this case. And Mr. DeBorba will
23 likely spend months to years in ICE custody.

24 Indeed, even if an Immigration Judge were to promptly order Mr. DeBorba
25 deported, he would likely wait for months in custody for a deportation flight to Brazil.
26 And the best case scenario for Mr. DeBorba—if an Immigration Judge agrees to delay

1 proceedings to allow Mr. DeBorba's appeal here to proceed so he could *seek* relief from
2 deportation—means he would spend months or even years longer in ICE detention
3 awaiting proceedings. Mr. DeBorba would likely be deemed ineligible for bond from
4 ICE detention while awaiting deportation proceedings due to the convictions here. *See* 8
5 U.S.C. § 1226(c)(1) (requiring detention with very limited exceptions for people who
6 are removable due to convictions of crimes involving moral turpitude, firearms
7 offenses, and others).

8 In the more likely former scenario, or absent a reversal of the convictions here
9 on appeal, Mr. DeBorba will be deported to Brazil and inadmissible to the United
10 States—meaning ineligible for even a tourist visa to visit. In other words, the judgment
11 in this case is expected to lead to Mr. DeBorba's lifelong exile from this country—the
12 only home he has known for the past couple decades, and the home of his beloved
13 children. This severe consequence is of course frightening for Mr. DeBorba. But, as
14 always, he is sorriest to his children for the harm the separation will cause them.

15 Mr. DeBorba is truly remorseful for his actions here. He is sorry to anyone
16 frightened or harmed by his possession of guns. He has spent the past two years
17 regretting and reflecting on his decisions. And he hopes above all to do whatever he can
18 to support his children. He recognizes his options for doing so going forward will likely
19 be severely limited, and he is doing his best to prepare for this reality.

20 **II. THE COURT SHOULD SENTENCE MR. DEBORBA TO FIVE YEARS** 21 **OF PROBATION.**

22 After considering the full circumstances of this case—including the over two
23 years that Mr. DeBorba has already served in difficult pretrial detention and the
24 extreme collateral consequences he faces—the Court should conclude that further
25 custodial sanction is not necessary to advance the goals of sentencing. Instead, the
26 Court should impose a sentence that maximizes its term of supervision over Mr.

1 DeBorba so that Probation may monitor and support him in the event he is able to
2 remain in the United States.

3 **A. The over two years that Mr. DeBorba has already served in jail as**
4 **well as his virtually certain deportation are more than enough**
5 **punishment here.**

6 No further custodial sentence is needed here to “to reflect the seriousness of the
7 offense, to promote respect for the law, and to provide just punishment for the
8 offense[.]” 18 U.S.C. § 3553(a)(2)(A). Unlike in many cases charged under § 922(g),
9 Mr. DeBorba had no prior felony convictions, no history of using guns for criminal
10 activity, and no intent nor desire to do so. Mr. DeBorba’s gun possession here had no
11 violent purpose and, as Dr. Gerlock recognizes, was evidently a poor form of coping.
12 Nonetheless, Mr. DeBorba recognizes now why his possession of firearms caused
13 others concern and he is truly sorry for that.

14 Two years in particularly difficult pretrial detention that will be followed by
15 months or years more in similarly difficult ICE detention and likely deportation are
16 more than enough punishment for Mr. DeBorba’s conduct here. Detention without
17 programming, real outdoor space, or adequate staffing for protection against harassment
18 is certainly more painful and punitive than incarceration at a fully equipped prison. Mr.
19 DeBorba’s harsh conditions of detention are expected to continue or worsen when he is
20 brought to ICE custody. *See, e.g., Grace Deng, For-Profit Tacoma ICE Center Blocks*
21 *Health and Labor Inspections*, Cascade PBS, CrossCut (Feb. 5, 2024),
22 [https://crosscut.com/news/2024/02/profit-tacoma-ice-center-blocks-health-and-labor-](https://crosscut.com/news/2024/02/profit-tacoma-ice-center-blocks-health-and-labor-inspections)
23 [inspections](https://crosscut.com/news/2024/02/profit-tacoma-ice-center-blocks-health-and-labor-inspections) (reporting over 300 complaints lodged regarding the Northwest Detention
24 Center including foreign objects in food, insufficient food, dismissal of medical needs,
25 unlaundered clothes and linen, and mis-use of solitary confinement; as well as the
26 Center’s refusal to allow Washington State health inspectors to enter).

1 Furthermore, Mr. DeBorba faces a collateral consequence here that is far worse
 2 than any contemplated by the Sentencing Guidelines. With the entry of judgment in this
 3 case, he faces virtually certain deportation and will be ineligible for otherwise possible
 4 forms of relief from removal. The Supreme Court has “long recognized that deportation
 5 is a particularly severe ‘penalty[.]’” *Padilla*, 559 U.S. at 365 (2010) (quoting *Fong Yue*
 6 *Ting v. United States*, 149 U.S. 698, 740 (1893)). This is especially so when deportation
 7 means a person would be separated from their families, including U.S. citizen children.
 8 *See United States v. Bonilla*, 637 F.3d 980, 984 (9th Cir. 2011). “As the Supreme Court
 9 has often emphasized, deportation is a drastic measure that may inflict the equivalent of
 10 banishment or exile, and result in the loss of all that makes life worth living.” *Sun Il*
 11 *Yoo v. Immigr. & Naturalization Serv.*, 534 F.2d 1325, 1329 (9th Cir. 1976) (cleaned
 12 up) (internal quotations omitted). The sentencing guidelines here do not account for this
 13 drastic punishment. But this Court may and should. This punishment alone, and
 14 certainly in combination with the two years Mr. DeBorba has already served in jail, is
 15 sufficient to reflect the seriousness of and to punish him for the offense here.

16 **B. Further custodial time will impede rather than promote the goal of**
 17 **deterrence.**

18 Additional time in prison will not deter criminal conduct. *See* 18 U.S.C.
 19 § 3553(a)(2)(B). The Department of Justice has long recognized that “[t]he *certainty* of
 20 being caught is a vastly more powerful deterrent than the punishment.” Dep’t of J.,
 21 Nat’l Inst. Of J., “Five Things About Deterrence,” May 2016,
 22 <https://www.ojp.gov/pdffiles1/nij/247350.pdf>. Indeed, “[s]ending an individual
 23 convicted of a crime to prison isn’t a very effective way to deter crime.” *Id.* Research
 24 demonstrates that prison sentences may actually increase, rather than decrease,
 25 recidivism. *Id.* “[P]rison sentences (particularly long sentences) are unlikely to deter
 26 future crime. Prisons actually may have the opposite effect: Inmates learn more

1 effective crime strategies from each other, and time spent in prison may desensitize
2 many to the threat of future imprisonment.” *Id.*

3 Instead, appropriate mental health care, in addition to the arrest here, is far more
4 likely to deter Mr. DeBorba from future criminal conduct. Given the Bureau of Prisons
5 (BOP)’s current staffing crisis, Mr. DeBorba is unlikely to receive much more than
6 medication if sentenced to further custodial time—even if designated to a more
7 appropriate facility. *See, e.g.,* Jory Heckman, *Bureau of Prisons Understaffing Leads to*
8 *‘Unprecedented Exodus’ of Employees, Union Warns*, Federal News Network, Sept. 30,
9 2022, [https://federalnewsnetwork.com/hiring-retention/2022/09/bureau-of-prisons-](https://federalnewsnetwork.com/hiring-retention/2022/09/bureau-of-prisons-understaffing-leads-to-unprecedented-exodus-of-employees-union-warns/)
10 [understaffing-leads-to-unprecedented-exodus-of-employees-union-warns/](https://federalnewsnetwork.com/hiring-retention/2022/09/bureau-of-prisons-understaffing-leads-to-unprecedented-exodus-of-employees-union-warns/); Glenn
11 Thrush, *Short on Staff, Prisons Enlist Teachers and Case Managers as Guards*, N.Y.
12 Times, May 1, 2023, [https://www.nytimes.com/2023/05/01/us/politics/prison-guards-](https://www.nytimes.com/2023/05/01/us/politics/prison-guards-teachers-staff.html)
13 [teachers-staff.html](https://www.nytimes.com/2023/05/01/us/politics/prison-guards-teachers-staff.html).

14 Instead of further custodial time, Mr. DeBorba recommends a sentence that
15 maximizes the Court’s available supervision time. Should Mr. DeBorba be allowed to
16 live in the United States, this sentence will allow the most time possible for Mr.
17 DeBorba to receive appropriate mental health care in the community and have the
18 structure and support of supervision to stay on this track.

19 **C. A supervision-focused sentence will best promote community safety.**

20 Further time in custody is also not necessary to protect the community here. Mr.
21 DeBorba never used a firearm to hurt anyone nor was there any indication of an intent
22 to do so. Rather, community safety is best promoted by Mr. DeBorba receiving
23 appropriate trauma therapy and mental health care so that he can think clearly and live
24 his values.

25 Dr. Gerlock is very experienced in evaluating and treating both PTSD and
26 domestic violence behaviors. She noted that Mr. DeBorba did not exhibit symptoms

1 indicative of severe danger to others. *See* Sealed Ex. A at 14. Rather, his biggest risk is
2 suicide or self-harm. *Id.* And she recommends treatment that includes trauma therapy as
3 most effective for Mr. DeBorba going forward. *See id.* at 14–15. As noted above, the
4 practical likelihood of him receiving such treatment during a BOP-based sentence is
5 slim. Instead, a supervision-focused sentence would best support treatment in the event
6 Mr. DeBorba is allowed to remain in the United States.

7 Furthermore, to the extent the Court is concerned about Mr. DeBorba's
8 relationship or contacts with his ex-wife, a sentence of five years of probation will best
9 address those concerns. County No-Contact Orders are presently in place, and Mr.
10 DeBorba is respecting those orders. However, a five-year probation sentence gives the
11 Court additional assurances in the event that Mr. DeBorba is allowed to remain in the
12 United States. In that scenario, with the conditions recommended by Probation, Mr.
13 DeBorba would be supervised by a U.S. Probation Officer. Should the officer have
14 concerns about Mr. DeBorba's communications or co-parenting with his ex-wife after
15 the expiration of any No-Contact Orders, the Probation Officer could essentially issue
16 their own no-contact instruction. Probation could further encourage clarity and support
17 for any co-parenting plan to prevent the need to invoke that provision. A probationary
18 sentence allows the Court up to five years of supervision, as opposed to only three
19 allowed with supervised release. As such, Mr. DeBorba's proposed sentence will best
20 assure the Court of community safety.

21 **D. Further custodial time will impede Mr. DeBorba's ability to get**
22 **needed mental health treatment.**

23 Additional custodial time will not further the goal of rehabilitating Mr. DeBorba.
24 *See* 18 U.S.C. § 3553(a)(2)(D). The types of integrated treatment that would most
25 improve Mr. DeBorba's mental health are of limited availability within the BOP.
26 Indeed, the only intensive trauma therapy available for men is the Resolve program,

1 available at only seven men's facilities. (Anecdotally, counsel's recent attempts to have
2 clients designated to facilities with such limited-availability programs have all been
3 unsuccessful, even with the Court's recommendation). The BOP does not offer the
4 types of inter-family relations treatment that Dr. Gerlock further recommends.

5 Furthermore, with Mr. DeBorba's likely deportation, effective rehabilitation also
6 means teaching him to live in a country that has become entirely foreign to him.
7 Prolonged time in an American prison will not teach Mr. DeBorba to navigate life in
8 Brazil, to regain language skills, or to parent his children from afar. It will simply
9 further entrench his anxiety and depression and impede the goal of rehabilitation.

10 **III. CONCLUSION**

11 Mr. DeBorba is truly sorry for his actions. He has already endured significant
12 punishment for these offenses over the past two years he has spent in detention. He will
13 further suffer a punishment worse than many could imagine—exile from his home and
14 separation from his children for the foreseeable future. A further custodial sanction is
15 not necessary. Instead, Mr. DeBorba, through counsel, asks the Court to sentence him
16 to five years of probation. In the event Mr. DeBorba is allowed to remain in the United
17 States, this will give the Court the greatest ability to supervise him and support his
18 rehabilitation and reentry.

19 DATED this 10th day of May 2024.

20 Respectfully submitted,

21 s/ Rebecca Fish

22 Assistant Federal Public Defender
23 Attorney for Mr. João DeBorba
24
25
26

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Exhibit B

Dear Judge Estudillo,

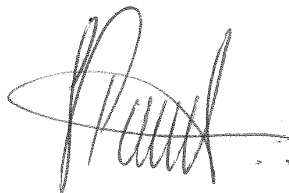
First of all I want to thank you for the opportunity to address you. I feel terribly sorry for the mistakes that I did because I know they affect, of course, my wife, my children, and the other loved ones. I understand that my actions frightened people, and I'm so sorry for this.

And I know for a fact that I need medical-mental help for my issues with anxiety, depression that got me to the point that I made bad decisions. And I feel that as soon as I get the opportunity to be free, I want to seek this kind of help, so I know for a fact that I will be able to think clearly. This type of help I know will help me to have a good relationship with my children and to be able to co-parent them with my ex-wife for the good of all of us and others involved. I feel terribly guilty for the actions that I did. I feel most guilty because I'm not able to be there with my children to give all the support as a father that I can do for them. Also, I feel terrified just thinking about facing deportation when I am transferred for immigration. It will keep me away from my children. Everything that I'm doing right now, at this point, and planning for the future, is all for the best for my children.

I'm really really sorry about my actions.

Sincerely,

Joao DeBorba

A handwritten signature in black ink, appearing to read 'Joao DeBorba', with a large, stylized initial 'J' and a horizontal line extending to the right.

Judge David G. Estudillo

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOAO RICARDO DEBORBA,

Defendant.

NO. CR22-5139-DGE

UNITED STATES' SENTENCING
MEMORANDUM

The United States respectfully recommends the Court impose a sentence of 60 months' imprisonment, to be followed by a three-year term of supervised release, and a mandatory special assessment of \$700. The defendant appears before this court for sentencing in the above-captioned case following the Court's February 5, 2024, guilty verdict on all seven counts of the Superseding Indictment.

I. BACKGROUND

A. Offense Conduct

1. DeBorba Engaged in Fraud to Remain in the United States for Over 20 Years

Joao Ricardo DeBorba, a citizen of Brazil, came to the United States in 1999 using a nonimmigrant B2 visitor's visa that allowed him to remain in the country temporarily for up to six months. PSR ¶ 9. Despite the restriction of his visa, which required that he

1 depart the United States by May 2000, DeBorba never left the county. He overstayed his
2 visa and remained in the United States until his eventual arrest in May 2022. Dkt 77 at
3 ¶¶ 4-6 (stipulated facts).

4 DeBorba was able to do this without detection in part by obtaining a Social
5 Security card in 2001 after presenting a false I-94 entry document. Dkt. 2 at ¶ 9 (criminal
6 complaint). DeBorba's Social Security card indicated that it did not permit his
7 employment. But he falsified I-9 employment eligibility forms by claiming U.S.
8 citizenship and presenting Social Security cards that had been forged or altered to remove
9 the notation, "NOT VALID FOR EMPLOYMENT." In addition, the card that he used in
10 connection with one successful employment application did not bear the seal of the
11 Social Security Administration, but rather bore the seal of the Department of Health and
12 Human Services, indicating it was a forgery. *Id.* at ¶ 11.

13 Because he was an alien unlawfully in the United States, DeBorba was at all
14 relevant times prohibited from purchasing or possessing a firearm. Dkt. 77 at ¶ 6.

15 **2. DeBorba Repeatedly Committed Domestic Violence Subjecting Him to**
16 **Numerous Restraining Orders**

17 On November 9, 2019, Vancouver Police responded to a domestic violence
18 incident involving DeBorba and his then-wife A.D. DeBorba's 12-year-old son called
19 911 and said his father attacked his mother and punched and slapped her multiple times
20 in the arms, legs, and face. A.D. told police that she was separated from DeBorba, who
21 was home with the children when she came home from work. DeBorba was angry and
22 asked to look in her phone, and when she refused, he took the phone from her, hit it on
23 the counter, and threatened to hit A.D. as well if she didn't give him the password. When
24 she did not, DeBorba slapped her in the face, and after she defended herself, DeBorba
25 continued to punch, kick, and slap her. A.D. moved to the kitchen to prevent her children
26 from seeing DeBorba hitting her, but DeBorba followed her into the kitchen, then into the
27 children's room where he slapped her in front of the children. A.D. asked DeBorba to

1 follow her outside to sit in the car so they could talk away from the children, but while in
2 the car with her DeBorba started the engine and began to drive away. A.D. was able to
3 jump out of the car after DeBorba backed up and before he put the car in drive, and she
4 went inside the residence and told one of the children to call police. *See* Exhibit 1,
5 attached hereto.

6 On November 12, 2019, a Washington District Court judge issued a Domestic
7 Violence No-Contact Order restraining DeBorba from assaulting, threatening, harassing,
8 or causing injury to A.D. Dkt. 77 at ¶ 14. The order also prevented DeBorba from owning
9 or possessing any firearms or from possessing a concealed pistol license and required him
10 to immediately surrender all firearms. *Id.* A replacement order with the same terms was
11 issued after a hearing two days later. *Id.* at ¶ 15. DeBorba was present for both hearings.

12 On November 16, 2019, A.D. went to a Vancouver Police station to report that
13 DeBorba had been calling her and sending her messages in violation of the restraining
14 order. Exhibit 2, attached. A.D.'s phone had call logs showing 20 phone calls from
15 DeBorba in a half-hour period and had multiple text and voice messages from him as
16 well. A.D. stated she was afraid to go home because DeBorba said he was coming to her
17 home to see the kids. A.D. knew that DeBorba had firearms, but stated she thought that
18 DeBorba had turned them in as required by the restraining order. *Id.*

19 Officers responded to DeBorba's residence for his violation of the restraining
20 order. DeBorba was present and was told he was under arrest and to come out, but he did
21 not, resulting in the response of additional units and a tactical vehicle. DeBorba
22 eventually surrendered and admitted he had firearms in the house. Police collected 20
23 firearms from inside the residence. *Id.*; dkt. 77 at ¶ 16; PSR ¶¶ 14, 51.

24 On December 7, 2019, A.D. again reported a restraining order violation by
25 DeBorba. A.D. came home from picking up food for her children and found DeBorba in
26 her apartment. She told him to leave multiple times, but he began yelling and punching
27 himself, then grabbed A.D. around her waist in what A.D. believed was an attempt to

1 stop her from taking her phone out to call police. A.D. kicked away from DeBorba and
2 ran outside screaming for help. DeBorba fled the scene. One of the children and a
3 neighbor corroborated A.D.'s statements to the police. Exhibit 3, attached.

4 On June 2, 2020, Vancouver Police responded to another report of a restraining
5 order violation. A.D. reported that DeBorba had been texting her and asking to come see
6 the children, and she allowed him to do so while she was at work but that he needed to
7 leave before she got home. When she returned from work, DeBorba was there and
8 approached her outside the apartment and pleaded with her that they needed to get back
9 together. A.D. told DeBorba she would not and asked him to leave, and he became angry
10 and started to yell, then grabbed both of A.D.'s arms. A.D. told DeBorba to let her go, but
11 he pushed her, causing her to fall backward onto a bicycle and injuring her arm. A.D.
12 immediately got up, grabbed the two youngest children, and ran into the apartment,
13 locking the door behind her. DeBorba knocked on the door multiple times, rang the
14 doorbell, and yelled loudly. The responding officer noted a half-inch abrasion on A.D.'s
15 left forearm and observed doorbell camera footage showing DeBorba knocking on the
16 door. DeBorba was later arrested at his apartment. PSR ¶ 51.¹ Exhibit 4, attached.

17 In October 2020, DeBorba was convicted of Assault in the Fourth Degree –
18 Domestic Violence and two counts of Domestic Violence Court Order Violations in
19 Clark County Superior Court. PSR ¶ 51. As part of sentencing, the court issued a new
20 domestic violence restraining order, which again required DeBorba to surrender any
21 firearms in his possession. Dkt. 77 at ¶ 19.

22 On August 21, 2022, DeBorba was again arrested for a restraining order violation
23 when, during an exchange of custody of his children, he had an argument with A.D.
24 during which he put his foot behind the wheel of her car to keep her from leaving.
25 A.D. began taking a video of DeBorba in the hope that he would leave her alone, but
26 DeBorba continued yelling at her and eventually spit at her. PSR ¶ 53.

27 _____
¹ The PSR incorrectly lists the date of this incident as June 20, 2020.
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1 Based on this incident, on January 31, 2022, DeBorba was again convicted of
2 fourth degree assault and of violating the October 2020 domestic violence restraining. *Id.*
3 DeBorba was again notified in person that he could not possess any firearms. Dkt. 77 at
4 ¶ 21.

5 **3. DeBorba Repeatedly and Unlawfully Obtains and Possesses**
6 **Firearms and Ammunition**

7 Despite being prohibited from doing so, both because he had unlawfully remained
8 in the United States and later because his commission of domestic violence resulted in
9 him being prohibited by court-issued restraining orders from possessing guns, DeBorba
10 repeatedly made fraudulent statements to obtain and carry firearms.

11 DeBorba falsified information on a February 2019 application for a concealed
12 pistol license, claiming to be a United States citizen. DeBorba knew that his answers to
13 the citizenship and immigration questions on the form were false. Dkt. 77 at ¶ 8; PSR
14 ¶ 10.

15 In March 2019, DeBorba bought a Savage Arms rifle in Portland, Oregon, by
16 falsely claiming on the required Bureau of Alcohol, Tobacco, Firearms and Explosives
17 Firearm Transaction Record (Form 4473) that he was a citizen of the United States, that
18 he was not unlawfully in the United States, and that he had not been admitted under a
19 nonimmigrant visa. Dkt. 2 at ¶ 14. Federal Firearms Licensed dealers are required to by
20 federal law to document the sales of firearms using Form 4473, and false statements on
21 the forms are material to the sale of firearms because federal law prohibits the transfer of
22 firearms to person prohibited from possessing them under federal law. PSR ¶ 11.

23 On April 4, 2019, DeBorba purchased a .45 caliber Sig Sauer model 1911 pistol
24 from a Cabela's store in Lacey, Washington, again providing the same false information
25 on the Form 4473. Dkt. 77 at ¶ 10; PSR ¶ 11. Nine days later, on April 13, 2019, he again
26 fraudulently bought a firearm (this time, a KelTec model Sub-2000 rifle) from a store in
27 Lebanon, Oregon. Dkt. 2 at ¶ 16.

1 The next day, April 14, 2019, DeBorba was driving a white SUV and was
2 involved in a single- vehicle collision on State Route 500 in Clark County. PSR ¶ 12. The
3 Washington State Patrol investigated and ultimately arrested DeBorba for driving under
4 the influence. PSR ¶ 50, dkt. 2 at ¶ 17. Based on this arrest, DeBorba was convicted of
5 negligent driving and placed on supervision, and later sentenced to five days' jail for
6 failing to comply with treatment and attend a victims panel. PSR ¶ 50.

7 During the encounter with the Washington State Patrol, DeBorba admitted he was
8 driving and told the officer he had a concealed pistol carry license. Dkt. 77 at ¶ 12. The
9 officer located the fraudulently obtained concealed pistol license on DeBorba and found a
10 Glock 26 type pistol in a black tactical backpack on the rear floorboard of the SUV.
11 Dkt. 77 at ¶¶ 12-13; PSR ¶¶ 12, 50. DeBorba initially denied having the pistol, but later
12 admitted the gun was in the backpack. Dkt. 2 at ¶ 17; dkt. 77 at ¶ 12.

13 The arrest did nothing to slow DeBorba's fraudulent and illegal acquisition of
14 firearms—indeed, his presentation to the officer of the fraudulently obtained concealed
15 carry license appears to have emboldened him. Less than a week later, on April 20, 2019,
16 he purchased a Century Arms model RAS47 rifle from Keith's Sporting Goods in
17 Gresham, Oregon, again falsifying information on the Form 4473. Dkt. 2 at ¶ 18. On
18 May 8, 2019, he purchased a Rock Island Armory model M200 .38 special revolver from
19 Brass Tacks Munitions in Vancouver, Washington, and made the same false statements
20 on the Form 4473. PSR ¶ 11; dkt 77 at ¶ 11.

21 Ultimately, DeBorba illegally obtained many more firearms, as evidenced by the
22 20 firearms confiscated by police following his November 16, 2019, arrest for violation
23 the domestic violence restraining order. Officers found at DeBorba's residence a variety
24 of firearms which he had failed to surrender as required by the court order, including
25 several pistols, ammunition, an AR-15 type rifle, and additional parts used to assemble

26 //

27 //

1 AR-15 type rifles. PSR ¶¶ 14, 51; dkt. 77 at ¶ 16 and Exhibit 7; dkt 2 at ¶ 21. Some of the
2 firearms taken into police custody are pictured below:



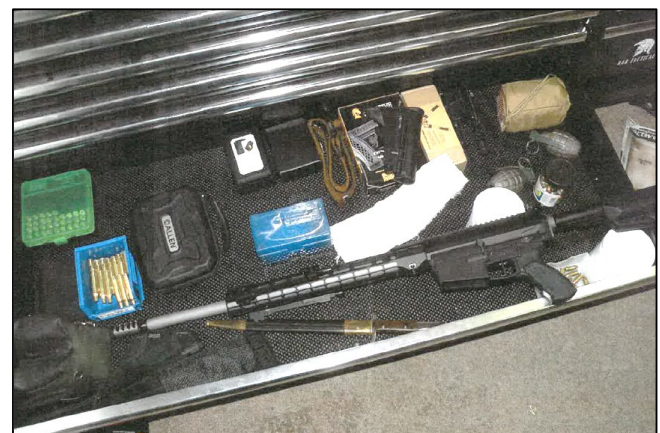
18 In April 2021, police responded to a report of an assault by DeBorba at his
19 residence (where he was living apart from A.D. and the children). The roommates
20 reported that DeBorba still had firearms, despite DeBorba having been ordered three
21 times not to possess any firearms and to relinquish any firearms in his possession. Dkt 2
22 at ¶ 28; Exhibit 5, attached. The roommates stated that DeBorba had a bolt-action rifle
23 that he often carried in a backpack because it could be disassembled. *Id.*; PSR ¶ 16. The
24 roommates reported that they were afraid of being assaulted by DeBorba and that he had
25 pushed the male roommate in the chest then locked the door to the apartment and told the
26 roommates, “You’re not going anywhere.” The female roommate reported being terrified
27 that DeBorba would attack her and that she began crying in fear. Exhibit 5.

1 In August 2021, federal law enforcement received additional information that
2 DeBorba continued to possess firearms and viewed a social media post on DeBorba's
3 Instagram social media account of DeBorba firing a black AR-15 type rifle with a
4 synthetic stock and optical sight. PSR ¶ 16; dkt. 2 at ¶ 23; dkt 77 at ¶ 22. The video was
5 found to have been recorded on May 20, 2020, in Washougal, Washington, and thus
6 showed DeBorba's continued violation of his domestic violence restraining order. Dkt. 2
7 at ¶ 23. Review of DeBorba's YouTube account showed additional videos of DeBorba
8 firing a rifle at a shooting range. Dkt 77 at ¶ 22.

9 On May 6, 2022, federal law enforcement searched DeBorba's residence,
10 suspecting his continued possession of firearms. PSR ¶ 17; dkt 77 at ¶ 23. Inside the
11 apartment, agents found evidence of DeBorba's possession and manufacture of firearms,
12 including three AR-15 type rifles, a Ruger 9mm handgun, and two Polymer80 Glock-type
13 handguns with no serial numbers or manufacturer's marks (commonly referred to as
14 "ghost guns" because of the lack of markings that would enable law enforcement to trace
15 the firearms to their origin or possessor), and numerous rounds of ammunition. PSR
16 ¶¶ 17-18; dkt 77 at ¶¶ 23-25. Several of the firearms appeared to be personally
17 manufactured firearms assembled from constituent parts. The apartment also contained a
18 workbench with a vice, a large amount of ammunition, firearms parts, firearms tools,
19 assembly instructions, body armor, and a completed firearm silencer, as well as
20 suppressor parts, rifle magazines including what appeared to be a 50-round drum
21 magazine, and other firearms accessories. PSR ¶¶ 19; dkt. 77 at ¶¶ 23-25 and Exhibit 12.
22 The firearm silencer met the definition of silencer under federal law and bore no serial
23 number allowing it to be registered. *Id.*; dkt 77 at ¶ 27.

24 DeBorba admitted to possessing the firearms in the residence and to assembling
25 them himself from parts that he purchased through the internet. DeBorba also admitted
26 that he had lied on the forms he used to buy firearms and that he knew that it was illegal
27 for non-citizens such as himself to possess firearms. PSR ¶¶ 20.

A portion of the items seized at DeBorba's residence are pictured below:



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UNITED STATES ATTORNEY
1201 PACIFIC AVE., SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

1 **B. Procedural History**

2 DeBorba was arrested on May 6, 2022, and a criminal complaint was filed the
3 same day. Dkt. 2. An indictment in six counts was issued on May 19, 2022, charging
4 unlawful possession of firearms and ammunition, false statements during the purchase of
5 a firearm, and false claim to United States citizenship. Dkt. 9. A superseding indictment
6 was issued on September 6, 2023, charging an additional count of unlawful possession of
7 a firearm silencer. On February 1, 2024, DeBorba waived his right to a jury trial, and a
8 bench trial based on stipulated facts was held on February 5, 2024. This Court found
9 DeBorba guilty on all counts. Dkt. 78.

10 **II. BACKGROUND ON SENTENCING**

11 Under 18 U.S.C. § 3553(a), the Court “shall impose a sentence sufficient, but not
12 greater than necessary, to comply with the purposes set forth in” 18 U.S.C. § 3553(a)(2).
13 There are four sentencing purposes set forth in Section 3553(a)(2): (1) just punishment or
14 retribution (“to reflect the seriousness of the offense, to promote respect for the law, and
15 to provide just punishment for the offense”); (2) deterrence (“to afford adequate
16 deterrence to criminal conduct”); (3) incapacitation (“to protect the public from further
17 crimes of the defendant”); and (4) rehabilitation (“to provide the defendant with needed
18 educational or vocational training, medical care, or other correctional treatment in the
19 most effective manner”). *See Rita v. United States*, 551 U.S. 338, 348 (2007) (using these
20 four terms); *see also Gall v. United States*, 552 U.S. 38, 50 n.6 (2007).

21 In determining a sentence that complies with these four sentencing purposes, a
22 sentencing court must consider the “nature and circumstances of the offense and the
23 history and characteristics of the defendant,” the “kinds of sentences available,” the
24 Sentencing Guidelines range and Sentencing Commission’s relevant policy statements,
25 the “need to provide restitution to any victims of the offense,” and the “need to avoid
26 unwarranted sentence disparities among defendants with similar records who have been
27 found guilty of similar conduct.” 18 U.S.C. § 3553(a)(1), (3)-(7). When considering these

1 factors, the Sentencing Guidelines range “should be the starting point and the initial
2 benchmark.” *Gall*, 552 U.S. at 49. Any deviation must be reasonable, and a “major
3 departure” from the Guidelines range “should be supported by a more significant
4 justification than a minor one.” *Id.* at 50.

5 III. SENTENCING GUIDELINES CALCULATIONS

6 A. Offense Level

7 1. The Base Offense Level

8 Because DeBorba was a prohibited firearms possessor and the offense conduct
9 involved a firearm described in the National Firearms Act (26 U.S.C. § 5845), namely, a
10 silencer, the base offense level is 20, pursuant to USSG § 2K2.1(a)(4)(B)(i)(II) and (ii)(I).
11 PSR ¶ 27.

12 2. Specific Offense Characteristic

13 Because the offense conduct involved 25 firearms or more, the offense level is
14 increased by six levels, pursuant to USSG § (b)(1)(B). PSR ¶ 28.

15 3. Adjustment for Acceptance of Responsibility

16 The Probation Office calculated a two-level decrease in offense level for
17 acceptance of responsibility pursuant to USSG § 3E.1.1(a), because DeBorba stipulated
18 to facts surrounding his offenses and participated in a bench trial. The government does
19 not object to the two-level decrease under subsection (a). *See* USSG § 3E1.1 cmt. n. 2.

20 As the Probation Office correctly noted in its Addendum to the Presentence
21 Report, the additional adjustment under USSG § 3E.1.1(b) is available only upon
22 government motion “stating that the defendant has assisted authorities in the investigation
23 or prosecution of his own misconduct by timely notifying authorities of his intention to
24 enter a plea of guilty, thereby permitting the government to avoid preparing for trial and
25 permitting the government and the court to allocate their resources efficiently.” The
26 government makes no such motion here.

27 //

1 Here, DeBorba did not timely notify the government of his intention to enter a
2 guilty plea. Indeed, he did not enter guilty plea at all, but proceeded to a bench trial,
3 albeit on stipulated facts. This has neither the legal nor the practical effect of a guilty
4 plea. The bench trial neither provided the government the certainty of a negotiated
5 resolution with all the typical attendant benefits to the government (such as avoiding
6 contested issues at sentencing and on appeal, and avoiding an appeal of the guilty verdict,
7 the outcome of pretrial motions, or issues related to the sentence), nor did it preserve
8 government resources (the government made trial preparations, such as filing jury
9 instructions, witness and exhibit lists, and a trial memo, and subpoenaing witnesses) but it
10 required substantial effort to draft factual stipulations in preparation for presenting the
11 government's case to the judge. These are the type of "substantive preparations taken to
12 present the government's case against the defendant to a . . . judge, in the case of a bench
13 trial" that Section 3E1.1(b) benefits defendants for allowing the government to avoid.

14 The Ninth Circuit has made it clear that a stipulated facts bench trial is not
15 equivalent to a guilty plea when it comes to Section 3E1.1(b). In *United States v.*
16 *Villasenor-Cesar*, 114 F.3d 970 (9th Cir. 1997), the Court directly addressed whether a
17 defendant may receive the third point for acceptance of responsibility after proceeding to
18 a stipulated facts bench trial and held that he cannot. *See also United States v. Espinoza-*
19 *Cano*, 456 F.3d 1126, 1136 (9th Cir. 2006) ("Espinoza-Cano argues that . . . the
20 government's decision not to file a motion in this case was arbitrary because he satisfied
21 the prerequisite of permitting the government to avoid trial preparation when he opted to
22 proceed by way of a stipulated bench trial. This contention, however, runs afoul of our
23 holding in *Villasenor-Cesar* that proceeding by way of a stipulated bench trial is
24 inconsistent with notifying authorities of an intent to plead guilty.")

25 **B. Criminal History Category**

26 DeBorba has four criminal history points, resulting in a criminal history category
27 of III. PSR ¶¶ 50-56.

1 **C. Guidelines Range**

2 The total offense level is 24. PSR ¶ 28. This results in a guidelines imprisonment
3 range of 63 to 78 months. PSR ¶ 100; USSG § Ch.5, Pt.A (Sentencing Table).

4 **IV. FACTORS RELATED TO SENTENCING RECOMMENDATION**

5 The United States respectfully requests that the Court sentence the defendant to 60
6 months of confinement, followed by a three-year term of supervised release. The United
7 States believes this sentence is appropriate in light of “the nature and circumstances of
8 the offense,” and the need for the sentence “to reflect the seriousness of the offense, to
9 promote respect for the law, and to provide just punishment for the offense,” and “to
10 protect the public from further crimes of the defendant.” 18 U.S.C. §§ 3553(a)(1),
11 (a)(2)(A), and (a)(2)(C). A review of pertinent Section 3553(a) sentencing factors, below,
12 supports the recommended sentence.

13 **A. Nature and Circumstances, and Seriousness of the Offense**

14 DeBorba’s criminal conduct was serious. He repeatedly committed domestic
15 violence against his former wife and in front of his children. This resulted in a series of
16 domestic violence restraining orders being issued protecting his wife from DeBorba.
17 Notwithstanding the clear provisions of these orders, DeBorba continued to possess, and
18 continued to acquire, large numbers of firearms, ammunition, and firearms accessories.
19 When police searched his residence in May 2022, his bedroom was essentially an armory
20 doubling as a firearms workshop. Particularly serious is DeBorba’s possession of an
21 illegal firearm silencer, body armor, and high-capacity magazines, along with the cache
22 of firearms.

23 The prohibitions set out in § 922(g)(8) “seek to protect society in general, and the
24 intimate partners of persons with a background of domestic violence in particular, by
25 reducing the risk of violence that may result from the possession of guns by persons with
26 a proven propensity for violence.” *United States v. Rogers*, 371 F.3d 1225, 1229 (10th
27 Cir. 2004). “The dangerousness of guns and their adaptability [for] use in violent crime

1 is why Congress has prohibited their possession’ by individuals subject to a domestic
2 protection order” *Id.* (quoting *United States v. Dillard*, 214 F.3d 88, 94 (2d Cir.
3 2000)). “A defendant whose background includes domestic violence which advances to
4 either a criminal conviction or the imposition of a protection order has a demonstrated
5 propensity for the use of physical violence against others.” *Id.*

6 Because of his propensity to violence, DeBorba’s ex-wife feared him and resorted
7 to the courts to ensure he would not have access to guns. DeBorba ignored these
8 protections and nevertheless acquired a small arsenal, not only knowing it was illegal for
9 him to do so but having been specifically ordered not to. This is extremely troubling.
10 “Firearms contribute significantly to domestic violence in the U.S. — to threaten, to
11 coerce, to control, and to kill. Around 4.5 million women in the United States have been
12 threatened with a gun, and nearly 1 million women have been shot or shot at by an
13 intimate partner. Over half of all intimate partner homicides are committed with guns.
14 Indeed, a woman is five times more likely to be murdered when her abuser has access to
15 a gun.” The Educational Fund to Stop Gun Violence, available at:
16 <https://efsgv.org/learn/type-of-gun-violence/domestic-violence-and-firearms> (last
17 accessed May 10, 2024).

18 Indeed, following his first reported domestic violence incident, DeBorba’s conduct
19 only became more troubling. He increased his threatening conduct toward his wife. He
20 threatened his roommates, who feared him because they knew he was accustomed to
21 carrying a rifle with him. Despite having firearms seized from him, he replenished his
22 cache of weapons and ammo, and began to obtain ghost guns as well as a firearm
23 silencer, a highly restricted weapon under federal law.

24 The offenses DeBorba committed are serious and require a sentence that reflect
25 the nature of the firearms crimes he committed.

26 //

27 //

1 **B. History and Characteristics of the Defendant**

2 DeBorba's criminal history reflects his domestic violence, with two prior
3 convictions for assault on his ex-wife, as well as a disorderly conduct conviction resulting
4 from the assault involving his roommates. He also has a reckless driving conviction. Prior
5 to that, he engaged in the creation of fraudulent documents to enable him to overstay his
6 visa and reside and work in the United States without detection for over 20 years.

7 **C. Need to Promote Respect for the Law, Provide Just Punishment for the**
8 **Offense, and Afford Adequate Deterrence**

9 DeBorba's conduct epitomizes a lack of respect for the law; not just the nation's
10 firearms laws, but specific orders from state judges requiring him not to possess firearms.
11 DeBorba knowingly disregarded these legal obligations time and again. Deterrence
12 requires that this conduct be treated seriously. The government's recommended sentence
13 would reflect the seriousness of the offense, appropriately promote respect for the law,
14 protect the community, and deter defendant and others who would seek to emulate his
15 conduct.

16 **D. Need to Avoid Unwarranted Sentence Disparity Among Similarly Situated**
17 **Defendants**

18 Anchoring the sentence in the guidelines calculations has the added benefit of
19 avoiding unwarranted sentencing disparities among similarly situated defendants. *Gall v.*
20 *United States*, 552 U.S. 38, 54 (2007) ("[A]voidance of unwarranted disparities was
21 clearly considered by the Sentencing Commission when setting the Guidelines ranges.").

22 //

23 //

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1 **V. CONCLUSION**

2 For all of the reasons set forth above, the government respectfully recommends the
3 Court impose a custodial sentence of 60 months, to be followed by a three-year term of
4 supervised release, and a mandatory special assessment of \$700.

5 DATED this 10th day of May, 2024.

6
7 Respectfully submitted,

8 TESSA M. GORMAN
9 United States Attorney

10 /s/ Max B. Shiner
11 MAX B. SHINER
12 Assistant United States Attorney
13 United States Attorney's Office
14 1201 Pacific Ave., Suite 700
15 Tacoma, Washington 98402
16 Phone: 253-428-3800
17 Fax: 206-553-3826
18 Email: max.shiner@usdoj.gov
19
20
21
22
23
24
25
26
27

Exhibit 1



Vancouver Police Department

Report Number 2019-018624 - *Offense / Incident - -GO~5374778 Report

REPORT DATE / TIME	EVENT START DATE / TIME - EVENT END DATE / TIME	REPORT WRITER
Nov 9, 2019 23:50	Nov 9, 2019 23:50	Stephen Sloniker #1738

REPORT TAKEN LOCATION

VILLAGE ON SEVENTH APARTMENTS, [REDACTED] VANCOUVER, WA 98683

NARRATIVE

Document No: G00053747780001
 Subject: CASE SUMMARY AND RCW
 Author: STEPHEN SLONIKER (231738)
 Date: 2019-11-10 04:40:00

[23RCW01] VPD CASE SUMMARY AND RCW v.150611 _____ CASE SUMMARY[ON 11/09/2019, AT APPROXIMATELY 2354 HOURS, I SELF-DISPATCHED TO 12800 [REDACTED] (VILLAGE ON SEVENTH APARTMENTS) IN REGARD TO A REPORT OF A PHYSICAL DISTURBANCE AT THIS LOCATION. BASED ON THE RESULTING INVESTIGATION, PROBABLE CAUSE WAS DETERMINED TO EXIST TO ARREST SUSPECT JOAO R. DEBORBA FOR DOMESTIC VIOLENCE ASSAULT, 4TH DEGREE. JOAO R. DEBORBA WAS TAKEN INTO CUSTODY.] ATTACHMENTS[NONE] EVIDENCE SUBMITTED IN TRAQ: [X] NONE[] PHYSICAL EVIDENCE [] DIGITAL EVIDENCE LIST OF CHARGES[ASSA - 9A.36.041-DV - ASSAULT IV - DV] [] [] RECOMMENDATIONS[FORWARD TO DOMESTIC VIOLENCE CASE SUPERVISOR FORWARD TO DVPC] EXTERNAL DISTRIBUTION (Other than options available in Routing) [No] [] [] Other External Distribution: [] _____

Document No: G00053747780002
 Subject: NARRATIVE - DV ASSAULT 4TH
 Author: STEPHEN SLONIKER (231738)
 Date: 2019-11-10 04:47:00

On 11/09/2019, at approximately 2354 hours, I self-dispatched to 12800 [REDACTED]. in regard to a report of a physical disturbance at this location. Initial call notes the altercation was between a husband and wife, and the call for service was placed by their son. I responded with Officer Aldridge. I arrived at the incident location. The suspect, Joao R. DeBorba, was outside of the apartment complex speaking to Officers Wilhelm and Barnett as I arrived. Officer Aldridge placed Joao in handcuffs for our safety due to the violent nature of the alleged offense. I then entered the dispatch residence, apartment H3, and contacted Officer Mason, who was interviewing [REDACTED] [REDACTED] identified himself as the son of Joao and [REDACTED] [REDACTED]. [REDACTED] gave a statement to Officer Mason, saying he had witnessed Joao hit his mother, both in an open-handed and close-fist fashion, during a verbal altercation earlier in the evening. [REDACTED] stated he saw Joao hit [REDACTED] in the kitchen of the residence multiple times. See Officer Mason's supplemental report for further detail regarding the alleged assault. I then contacted Officer Tretta who was interviewing [REDACTED] DeBorba, Joao's wife. I did not observe any visible injuries on [REDACTED] person upon my arrival. [REDACTED] gave a statement that Joao had struck her multiple times in various rooms of the residence during a verbal altercation. [REDACTED] stated she then asked Joao to speak outside so the children could not witness their argument. [REDACTED] said she went outside and spoke to Joao while they both occupied his vehicle, at which time he attempted to leave the apartment complex while she was inside the vehicle. [REDACTED] stated she did not want to leave with Joao and "jumped out" of the vehicle as it was moving before returning to the residence. During the interview with [REDACTED] she stated she was in favor of a No Contact Order against Joao, and she no longer wanted him to be in her house. See Officer Tretta's report for further detail regarding [REDACTED] statement. I then took custody of Joao from Officers Wilhelm and Barnett. I advised Joao he was under arrest and searched his person incident to arrest, with

REPORTING OFFICER SIGNATURE / DATE	SUPERVISOR SIGNATURE / DATE
Stephen Sloniker #1738 Nov 9, 2019 23:50 (e-signature)	Kevin Barton #1551 Nov 10, 2019 00:00 (e-signature)
PRINT NAME	PRINT NAME
Stephen Sloniker #1738	Kevin Barton #1551

Vancouver Police Department

Mark43 RMS Form v2.0 generated by E. Boyle #1778 on Aug 24, 2021 01:13.
 Imported Report.

Pg 1 of 3

08771

SER-79

no finds. I transported Joao to the Clark County Sheriff's Office Jail and transferred him to the custody of jail staff with no incident. Based on the statements provided by R D and A D I determined there to be probable cause to arrest Joao for Domestic Violence Assault, Fourth Degree, pursuant to RCW 9A.46.041.

OFFENSE-1

OFFENSE CODE

13130 | SIMPLE ASSAULT-MISD

OFFENSE START DATE

Nov 9, 2019 00:00

OFFENSE END DATE

Nov 9, 2019 00:00

OFFENSE COMPLETION

☒ COMPLETED
☐ ATTEMPTED

DOES EVENT CONTAIN BIAS ELEMENTS?

☐ YES ☒ NO

DOMESTIC VIOLENCE

☒ YES ☐ NO

WAS METHOD OF ENTRY FORCED?

☐ YES ☒ NO**OFFENSE LOCATION**

LOCATION NAME / STREET ADDRESS/LOCATION NAME / APT, UNIT, STE / DESCRIPTION

VILLAGE ON SEVENTH APARTMENTS, [REDACTED]

CITY

VANCOUVER

STATE

WA

ZIP

98683

COUNTRY CODE

US

LOCATION CATEGORY

Residence/ Home

VICTIMS-1

VICTIMS-1 NAME (LAST, FIRST MIDDLE)

V-1 A D O

DOB / ESTIMATED AGE RANGE

1980-[REDACTED]

SEX

Female

RACE / ETHNICITY

White / Not Hispanic Or Latino

PHONE NUMBER

(360) 843-8789 (Mobile)

HOME ADDRESS

VILLAGE ON SEVENTH APARTMENTS, [REDACTED], VANCOUVER, WA 98683

WITNESS-1

WITNESS-1 NAME (LAST, FIRST MIDDLE)

W-1 R D

DOB / ESTIMATED AGE RANGE

2007-[REDACTED]

SEX

Male

RACE / ETHNICITY

White / Unknown

PHONE NUMBER

(360) 843-5477 (Mobile)

HOME ADDRESS

VILLAGE ON SEVENTH APARTMENTS, [REDACTED], VANCOUVER, WA 98683

INVOLVED OTHER-1

INVOLVED OTHER-1 (PERSON)

O-1 DEBORBA, JOAO R D

DOB / ESTIMATED AGE RANGE

1975-[REDACTED]

SEX

Male

RACE / ETHNICITY

White / Not Hispanic Or Latino

PHONE NUMBER

(978) 398-5793 (Mobile)

HOME ADDRESS

VILLAGE ON SEVENTH APARTMENTS, [REDACTED], VANCOUVER, WA 98683

ATTACHMENTS ADDENDUM

FILE NAME

3530286.pdf

UPLOAD DATE/TIME

Nov 5, 2020 01:54

UPLOADED BY

L. Data Migration

3530291.pdf

Nov 5, 2020 01:54

L. Data Migration

3530292.pdf

Nov 5, 2020 01:54

L. Data Migration

3530297.pdf

Nov 5, 2020 01:54

L. Data Migration

REPORTING OFFICER SIGNATURE / DATE

Stephen Sloniker #1738 Nov 9, 2019 23:50 (e-signature)

PRINT NAME

Stephen Sloniker #1738

SUPERVISOR SIGNATURE / DATE

Kevin Barton #1551 Nov 10, 2019 00:00 (e-signature)

PRINT NAME

Kevin Barton #1551

3534648.pdf	Nov 5, 2020 01:54	L. Data Migration

3534651.pdf	Nov 5, 2020 01:54	L. Data Migration

3534652.pdf	Nov 5, 2020 01:54	L. Data Migration

GO_2019_18624.pdf	Oct 28, 2020 15:29	L. Data Migration

This report was generated in Mark43 and the e-signature was affixed using the undersigned officer's unique login and password. I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge and belief.

ELECTRONICALLY SIGNED	DATE	PLACE
Stephen Sloniker	11/09/2019	Vancouver Police Department, WA

REPORTING OFFICER SIGNATURE / DATE
Stephen Sloniker #1738 Nov 9, 2019 23:50 (e-signature)
PRINT NAME
Stephen Sloniker #1738

SUPERVISOR SIGNATURE / DATE
Kevin Barton #1551 Nov 10, 2019 00:00 (e-signature)
PRINT NAME
Kevin Barton #1551

Report Number 2019-018624 - Supplement - FU-707947 Report

REPORT DATE / TIME	EVENT START DATE / TIME - EVENT END DATE / TIME	REPORT WRITER
Nov 10, 2019 04:04	Nov 9, 2019 23:50	Tim Tretta #1697

SUPPLEMENT TYPE

Patrol Supplemental

NARRATIVE

Document No: FU0007079470001

Subject: SUPPLEMENTAL

Author: TIMOTHY TRETТА (231697)

Date:2019-11-10 04:03:00

On 11/9/19 at about 2350 hours, I responded to 12800 [REDACTED] (Village on Seventh Apartments [REDACTED]) to assist Officer Sloniker concerning a physical disturbance. Upon my arrival at about 2359 hours, I met with [REDACTED] [REDACTED]. [REDACTED] was sitting on the stairs that lead to her apartment. [REDACTED] was crying hysterically, which made communication difficult. I managed to calm [REDACTED] enough to begin a dialog. [REDACTED] reported that she came home from work and she met with her husband, Joao [REDACTED] [REDACTED] who was already at her home watching their four, in-common children. [REDACTED] advised that Joao does not live with [REDACTED] and they are currently separated. [REDACTED] reported that Joao was angry when she arrived, which he's been since [REDACTED] told him that she wants to get a divorce. [REDACTED] explained that Joao started arguing with [REDACTED] and he asked to look in her phone, which [REDACTED] did not allow. As a result, Joao took [REDACTED] phone from her however, it was password locked. [REDACTED] advised that Joao should still have her phone as of this interview. [REDACTED] advised that Joao demanded that [REDACTED] provide him with the password to her phone, which she refused to give Joao. Joao threatened to damage [REDACTED] phone by hitting it on the counter and then also threatened to hit [REDACTED] if she did not provide him with its password. [REDACTED] explained that she did not say anything to Joao when he threatened to hit her. [REDACTED] advised that Joao then slapped [REDACTED] on the right side of her face. [REDACTED] explained that she anticipated a second slap to the left side of her face so she put her arm in front of her face to block the upcoming slap and in doing so [REDACTED] hand hit Joao's face. In response, [REDACTED] was told by Joao (in Portuguese) you hit me now I'm going to hit you good and then Joao punched [REDACTED] on both of her arms, kicked her left leg and slapped the right side of her face. [REDACTED] advised that she did not want the children seeing Joao hitting her so she went to the kitchen to separate away from Joao however, Joao followed her into the kitchen. [REDACTED] explained that she believed that Joao would not hit [REDACTED] in-front of the children so she decided to go into the kid's room; Joao followed. While in the kid's room, [REDACTED] reported that Joao slapped the left side of her face in-front of the kids. [REDACTED] then asked Joao to come talk with her outside, he agreed and they went downstairs and sat in their car to talk. [REDACTED] reported that once they were in the car, Joao started the car and wanted to drive away. [REDACTED] advised that she did not want to go anywhere with Joao, which she told him several times. However, Joao backed the car out of a parking space anyhow. [REDACTED] explained that once the car backed up Joao went to put the car in drive, which provided [REDACTED] enough time to jump out of the car. Once out of the car [REDACTED] went back to her apartment while Joao parked the car. Because of the delay, [REDACTED] was able to ask her child to all police. While [REDACTED] child was calling police, [REDACTED] went back and sat on the steps leading to her apartment where she was again met by Joao who was not aware that police were contacted. [REDACTED] further advised that Joao has mental health issues that he takes medication for, which she does not think he took prior to this incident. Furthermore, [REDACTED] advised that if Joao has redness on his face it is because when he gets angry he tends to hit himself. While speaking with [REDACTED] I did not see any visible signs that she was injured. [REDACTED] allowed me to photograph her face and also advised that Joao is "black belt" and he knows how to hit her without leaving a mark. [REDACTED] agreed to complete a Smith Affidavit. After [REDACTED] completed the affidavit I read her the perjury statement. After I read [REDACTED] the perjury statement she signed both pages of her two page statement with me as a witness. Lastly, I went over a safety plan with [REDACTED] prior to concluding my interview. Corporal Lagerquist was notified as [REDACTED] statements added to a threat score of 25.

Recommend:
Attach to GO.

REPORTING OFFICER SIGNATURE / DATE	SUPERVISOR SIGNATURE / DATE
Tim Tretta #1697 Nov 10, 2019 04:04 (e-signature)	Kevin Barton #1551 Nov 10, 2019 04:04 (e-signature)
PRINT NAME	PRINT NAME
Tim Tretta #1697	Kevin Barton #1551

This report was generated in Mark43 and the e-signature was affixed using the undersigned officer's unique login and password. I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge and belief.

ELECTRONICALLY SIGNED	DATE	PLACE
Tim Tretta	11/10/2019	Vancouver Police Department, WA

REPORTING OFFICER SIGNATURE / DATE

Tim Tretta #1697 Nov 10, 2019 04:04 (e-signature)

PRINT NAME

Tim Tretta #1697

SUPERVISOR SIGNATURE / DATE

Kevin Barton #1551 Nov 10, 2019 04:04 (e-signature)

PRINT NAME

Kevin Barton #1551

Vancouver Police Department

Mark43 RMS Form v2.0 generated by E. Boyle #1778 on Aug 24, 2021 01:13.
Imported Report.

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08776

SER-83

Report Number 2019-018624 - Supplement - FU~707948 Report

REPORT DATE / TIME	EVENT START DATE / TIME - EVENT END DATE / TIME	REPORT WRITER
Nov 10, 2019 05:54	Nov 9, 2019 23:50	Justin Mason #1712

SUPPLEMENT TYPE

Patrol Supplemental

NARRATIVE

Document No: FU0007079480001

Subject: SUPPLEMENTAL - MASON

Author: JUSTIN MASON (231712)

Date:2019-11-10 05:42:00

On 11/9/2019 at approximately 2355 hours I was one of multiple Officers to respond to 12800 [REDACTED] for a physical disturbance. Once I scene one of my responsibilities was to speak with the caller and

son of the suspect and victim, [REDACTED] [REDACTED] was the one who had called 911 and reported the disturbance. [REDACTED] is 12 years old and said he, his younger brother and even younger sister were all in the apartment during the disturbance.

According the [REDACTED] his father had been away for work in Seattle for a few days. He got to their apartment and he and his mother started arguing.

[REDACTED] was not entirely sure what the argument was about but said it was heated. They stopped arguing for a while but it picked up again not long before [REDACTED] called 911. He said that his parents started arguing again and "my dad had a lost it moment". [REDACTED] said his father attacked his mother. He observed him punch and slap her multiple times in the arms and legs. [REDACTED] said a couple of the slaps appeared to hit his mother in the face. [REDACTED] said his mother kept telling his father to stop and swung at him a couple times as well.

[REDACTED] said that his father said something about making a divorce difficult but he was not sure what exactly was said.

[REDACTED] said that his parents both went outside and shortly after he

called 911. [REDACTED] said that his parents had fought like this before at their old house in Massachusetts. He did not believe the incidents were reported. I collected his information and ended the interview.

For more information see the general and all associated supplemental reports.

Justin Mason 1712

East Graveyard Patrol

11/10/2019

This report was generated in Mark43 and the e-signature was affixed using the undersigned officer's unique login and password. I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge and belief.

ELECTRONICALLY SIGNED	DATE	PLACE
Justin Mason	11/10/2019	Vancouver Police Department, WA

REPORTING OFFICER SIGNATURE / DATE	SUPERVISOR SIGNATURE / DATE
Justin Mason #1712 Nov 10, 2019 05:54 (e-signature)	Kevin Barton #1551 Nov 10, 2019 05:54 (e-signature)
PRINT NAME	PRINT NAME
Justin Mason #1712	Kevin Barton #1551

Vancouver Police Department

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Imported Report.

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08777

SER-84



Vancouver Police Department

Report Number 2019-018624 - *Offense / Incident - -GO~5374778 Report

REPORT DATE / TIME	EVENT START DATE / TIME - EVENT END DATE / TIME	REPORT WRITER
Nov 9, 2019 23:50	Nov 9, 2019 23:50	Stephen Sloniker #1738

REPORT TAKEN LOCATION

VILLAGE ON SEVENTH APARTMENTS, [REDACTED] VANCOUVER, WA 98683

NARRATIVE

Document No: G00053747780001
 Subject: CASE SUMMARY AND RCW
 Author: STEPHEN SLONIKER (231738)
 Date: 2019-11-10 04:40:00

[23RCW01] VPD CASE SUMMARY AND RCW v.150611 _____ CASE SUMMARY[ON 11/09/2019, AT APPROXIMATELY 2354 HOURS, I SELF-DISPATCHED TO 12800 [REDACTED] (VILLAGE ON SEVENTH APARTMENTS) IN REGARD TO A REPORT OF A PHYSICAL DISTURBANCE AT THIS LOCATION. BASED ON THE RESULTING INVESTIGATION, PROBABLE CAUSE WAS DETERMINED TO EXIST TO ARREST SUSPECT JOAO R. DEBORBA FOR DOMESTIC VIOLENCE ASSAULT, 4TH DEGREE. JOAO R. DEBORBA WAS TAKEN INTO CUSTODY.] ATTACHMENTS[NONE] EVIDENCE SUBMITTED IN TRAQ: [X] NONE[] PHYSICAL EVIDENCE [] DIGITAL EVIDENCE LIST OF CHARGES[ASSA - 9A.36.041-DV - ASSAULT IV - DV] [] [] RECOMMENDATIONS[FORWARD TO DOMESTIC VIOLENCE CASE SUPERVISOR FORWARD TO DVPC] EXTERNAL DISTRIBUTION (Other than options available in Routing) [No] [] [] Other External Distribution: [] _____

Document No: G00053747780002
 Subject: NARRATIVE - DV ASSAULT 4TH
 Author: STEPHEN SLONIKER (231738)
 Date: 2019-11-10 04:47:00

On 11/09/2019, at approximately 2354 hours, I self-dispatched to 12800 [REDACTED]. in regard to a report of a physical disturbance at this location. Initial call notes the altercation was between a husband and wife, and the call for service was placed by their son. I responded with Officer Aldridge. I arrived at the incident location. The suspect, Joao R. DeBorba, was outside of the apartment complex speaking to Officers Wilhelm and Barnett as I arrived. Officer Aldridge placed Joao in handcuffs for our safety due to the violent nature of the alleged offense. I then entered the dispatch residence, apartment H3, and contacted Officer Mason, who was interviewing [REDACTED] [REDACTED] identified himself as the son of Joao and [REDACTED] [REDACTED]. [REDACTED] gave a statement to Officer Mason, saying he had witnessed Joao hit his mother, both in an open-handed and close-fist fashion, during a verbal altercation earlier in the evening. [REDACTED] stated he saw Joao hit [REDACTED] in the kitchen of the residence multiple times. See Officer Mason's supplemental report for further detail regarding the alleged assault. I then contacted Officer Tretta who was interviewing [REDACTED] DeBorba, Joao's wife. I did not observe any visible injuries on [REDACTED] person upon my arrival. [REDACTED] gave a statement that Joao had struck her multiple times in various rooms of the residence during a verbal altercation. [REDACTED] stated she then asked Joao to speak outside so the children could not witness their argument. [REDACTED] said she went outside and spoke to Joao while they both occupied his vehicle, at which time he attempted to leave the apartment complex while she was inside the vehicle. [REDACTED] stated she did not want to leave with Joao and "jumped out" of the vehicle as it was moving before returning to the residence. During the interview with [REDACTED] she stated she was in favor of a No Contact Order against Joao, and she no longer wanted him to be in her house. See Officer Tretta's report for further detail regarding [REDACTED] statement. I then took custody of Joao from Officers Wilhelm and Barnett. I advised Joao he was under arrest and searched his person incident to arrest, with

REPORTING OFFICER SIGNATURE / DATE	SUPERVISOR SIGNATURE / DATE
Stephen Sloniker #1738 Nov 9, 2019 23:50 (e-signature)	Kevin Barton #1551 Nov 10, 2019 00:00 (e-signature)
PRINT NAME	PRINT NAME
Stephen Sloniker #1738	Kevin Barton #1551

no finds. I transported Joao to the Clark Country Sheriff's Office Jail and transferred him to the custody of jail staff with no incident. Based on the statements provided by R D and A D I determined there to be probable cause to arrest Joao for Domestic Violence Assault, Fourth Degree, pursuant to RCW 9A.46.041.

OFFENSE-1

OFFENSE CODE

13130 | SIMPLE ASSAULT-MISD

OFFENSE START DATE

Nov 9, 2019 00:00

OFFENSE END DATE

Nov 9, 2019 00:00

OFFENSE COMPLETION

☒ COMPLETED
☐ ATTEMPTED

DOES EVENT CONTAIN BIAS ELEMENTS?

☐ YES ☒ NO

DOMESTIC VIOLENCE

☒ YES ☐ NO

WAS METHOD OF ENTRY FORCED?

☐ YES ☒ NO**OFFENSE LOCATION**

LOCATION NAME / STREET ADDRESS/LOCATION NAME / APT, UNIT, STE / DESCRIPTION

VILLAGE ON SEVENTH APARTMENTS, [REDACTED]

CITY

VANCOUVER

STATE

WA

ZIP

98683

COUNTRY CODE

US

LOCATION CATEGORY

Residence/ Home

VICTIMS-1

VICTIMS-1 NAME (LAST, FIRST MIDDLE)

V-1 A D O

DOB / ESTIMATED AGE RANGE

1980-[REDACTED]

SEX

Female

RACE / ETHNICITY

White / Not Hispanic Or Latino

PHONE NUMBER

(360) 843-8789 (Mobile)

HOME ADDRESS

VILLAGE ON SEVENTH APARTMENTS, [REDACTED], VANCOUVER, WA 98683

WITNESS-1

WITNESS-1 NAME (LAST, FIRST MIDDLE)

W-1 R D

DOB / ESTIMATED AGE RANGE

2007-[REDACTED]

SEX

Male

RACE / ETHNICITY

White / Unknown

PHONE NUMBER

(360) 843-5477 (Mobile)

HOME ADDRESS

VILLAGE ON SEVENTH APARTMENTS, [REDACTED], VANCOUVER, WA 98683

INVOLVED OTHER-1

INVOLVED OTHER-1 (PERSON)

O-1 DEBORBA, JOAO R D

DOB / ESTIMATED AGE RANGE

1975-[REDACTED]

SEX

Male

RACE / ETHNICITY

White / Not Hispanic Or Latino

PHONE NUMBER

(978) 398-5793 (Mobile)

HOME ADDRESS

VILLAGE ON SEVENTH APARTMENTS, [REDACTED], VANCOUVER, WA 98683

ATTACHMENTS ADDENDUM

FILE NAME

3530286.pdf

UPLOAD DATE/TIME

Nov 5, 2020 01:54

UPLOADED BY

L. Data Migration

3530291.pdf

Nov 5, 2020 01:54

L. Data Migration

3530292.pdf

Nov 5, 2020 01:54

L. Data Migration

3530297.pdf

Nov 5, 2020 01:54

L. Data Migration

REPORTING OFFICER SIGNATURE / DATE

Stephen Sloniker #1738 Nov 9, 2019 23:50 (e-signature)

PRINT NAME

Stephen Sloniker #1738

SUPERVISOR SIGNATURE / DATE

Kevin Barton #1551 Nov 10, 2019 00:00 (e-signature)

PRINT NAME

Kevin Barton #1551

3534648.pdf	Nov 5, 2020 01:54	L. Data Migration

3534651.pdf	Nov 5, 2020 01:54	L. Data Migration

3534652.pdf	Nov 5, 2020 01:54	L. Data Migration

GO_2019_18624.pdf	Oct 28, 2020 15:29	L. Data Migration

This report was generated in Mark43 and the e-signature was affixed using the undersigned officer's unique login and password. I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge and belief.

ELECTRONICALLY SIGNED	DATE	PLACE
Stephen Sloniker	11/09/2019	Vancouver Police Department, WA

REPORTING OFFICER SIGNATURE / DATE

Stephen Sloniker #1738 Nov 9, 2019 23:50 (e-signature)

PRINT NAME

Stephen Sloniker #1738

SUPERVISOR SIGNATURE / DATE

Kevin Barton #1551 Nov 10, 2019 00:00 (e-signature)

PRINT NAME

Kevin Barton #1551

Vancouver Police Department

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08773

SER-87

Report Number 2019-018624 - Supplement - FU-707947 Report

REPORT DATE / TIME	EVENT START DATE / TIME - EVENT END DATE / TIME	REPORT WRITER
Nov 10, 2019 04:04	Nov 9, 2019 23:50	Tim Tretta #1697

SUPPLEMENT TYPE

Patrol Supplemental

NARRATIVE

Document No: FU0007079470001

Subject: SUPPLEMENTAL

Author: TIMOTHY TRETТА (231697)

Date:2019-11-10 04:03:00

On 11/9/19 at about 2350 hours, I responded to 12800 [REDACTED] (Village on Seventh Apartments [REDACTED]) to assist Officer Sloniker concerning a physical disturbance. Upon my arrival at about 2359 hours, I met with [REDACTED] [REDACTED]. [REDACTED] was sitting on the stairs that lead to her apartment. [REDACTED] was crying hysterically, which made communication difficult. I managed to calm [REDACTED] enough to begin a dialog. [REDACTED] reported that she came home from work and she met with her husband, Joao [REDACTED] [REDACTED] who was already at her home watching their four, in-common children. [REDACTED] advised that Joao does not live with [REDACTED] and they are currently separated. [REDACTED] reported that Joao was angry when she arrived, which he's been since [REDACTED] told him that she wants to get a divorce. [REDACTED] explained that Joao started arguing with [REDACTED] and he asked to look in her phone, which [REDACTED] did not allow. As a result, Joao took [REDACTED] phone from her however, it was password locked. [REDACTED] advised that Joao should still have her phone as of this interview. [REDACTED] advised that Joao demanded that [REDACTED] provide him with the password to her phone, which she refused to give Joao. Joao threatened to damage [REDACTED] phone by hitting it on the counter and then also threatened to hit [REDACTED] if she did not provide him with its password. [REDACTED] explained that she did not say anything to Joao when he threatened to hit her. [REDACTED] advised that Joao then slapped [REDACTED] on the right side of her face. [REDACTED] explained that she anticipated a second slap to the left side of her face so she put her arm in front of her face to block the upcoming slap and in doing so [REDACTED] hand hit Joao's face. In response, [REDACTED] was told by Joao (in Portuguese) you hit me now I'm going to hit you good and then Joao punched [REDACTED] on both of her arms, kicked her left leg and slapped the right side of her face. [REDACTED] advised that she did not want the children seeing Joao hitting her so she went to the kitchen to separate away from Joao however, Joao followed her into the kitchen. [REDACTED] explained that she believed that Joao would not hit [REDACTED] in-front of the children so she decided to go into the kid's room; Joao followed. While in the kid's room, [REDACTED] reported that Joao slapped the left side of her face in-front of the kids. [REDACTED] then asked Joao to come talk with her outside, he agreed and they went downstairs and sat in their car to talk. [REDACTED] reported that once they were in the car, Joao started the car and wanted to drive away. [REDACTED] advised that she did not want to go anywhere with Joao, which she told him several times. However, Joao backed the car out of a parking space anyhow. [REDACTED] explained that once the car backed up Joao went to put the car in drive, which provided [REDACTED] enough time to jump out of the car. Once out of the car [REDACTED] went back to her apartment while Joao parked the car. Because of the delay, [REDACTED] was able to ask her child to all police. While [REDACTED] child was calling police, [REDACTED] went back and sat on the steps leading to her apartment where she was again met by Joao who was not aware that police were contacted. [REDACTED] further advised that Joao has mental health issues that he takes medication for, which she does not think he took prior to this incident. Furthermore, [REDACTED] advised that if Joao has redness on his face it is because when he gets angry he tends to hit himself. While speaking with [REDACTED] I did not see any visible signs that she was injured. [REDACTED] allowed me to photograph her face and also advised that Joao is "black belt" and he knows how to hit her without leaving a mark. [REDACTED] agreed to complete a Smith Affidavit. After [REDACTED] completed the affidavit I read her the perjury statement. After I read [REDACTED] the perjury statement she signed both pages of her two page statement with me as a witness. Lastly, I went over a safety plan with [REDACTED] prior to concluding my interview. Corporal Lagerquist was notified as [REDACTED] statements added to a threat score of 25. Recommend: Attach to GO.

REPORTING OFFICER SIGNATURE / DATE	SUPERVISOR SIGNATURE / DATE
Tim Tretta #1697 Nov 10, 2019 04:04 (e-signature)	Kevin Barton #1551 Nov 10, 2019 04:04 (e-signature)
PRINT NAME	PRINT NAME
Tim Tretta #1697	Kevin Barton #1551

Vancouver Police Department

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08775

SER-88

This report was generated in Mark43 and the e-signature was affixed using the undersigned officer's unique login and password. I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge and belief.

ELECTRONICALLY SIGNED	DATE	PLACE
Tim Tretta	11/10/2019	Vancouver Police Department, WA

REPORTING OFFICER SIGNATURE / DATE

Tim Tretta #1697 Nov 10, 2019 04:04 (e-signature)

PRINT NAME

Tim Tretta #1697

SUPERVISOR SIGNATURE / DATE

Kevin Barton #1551 Nov 10, 2019 04:04 (e-signature)

PRINT NAME

Kevin Barton #1551

Vancouver Police Department

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Imported Report.

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SER-89

Report Number 2019-018624 - Supplement - FU~707948 Report

REPORT DATE / TIME	EVENT START DATE / TIME - EVENT END DATE / TIME	REPORT WRITER
Nov 10, 2019 05:54	Nov 9, 2019 23:50	Justin Mason #1712

SUPPLEMENT TYPE

Patrol Supplemental

NARRATIVE

Document No: FU0007079480001

Subject: SUPPLEMENTAL - MASON

Author: JUSTIN MASON (231712)

Date:2019-11-10 05:42:00

On 11/9/2019 at approximately 2355 hours I was one of multiple Officers to respond to 12800 [REDACTED] for a physical disturbance. Once I scene one of my responsibilities was to speak with the caller and

son of the suspect and victim, [REDACTED] [REDACTED] was the one who had called 911 and reported the disturbance. [REDACTED] is 12 years old and said he, his younger brother and even younger sister were all in the apartment during the disturbance.

According the [REDACTED] his father had been away for work in Seattle for a few days. He got to their apartment and he and his mother started arguing.

[REDACTED] was not entirely sure what the argument was about but said it was heated. They stopped arguing for a while but it picked up again not long before [REDACTED] called 911. He said that his parents started arguing again and "my dad had a lost it moment". [REDACTED] said his father attacked his mother. He observed him punch and slap her multiple times in the arms and legs. [REDACTED] said a couple of the slaps appeared to hit his mother in the face. [REDACTED] said his mother kept telling his father to stop and swung at him a couple times as well.

[REDACTED] said that his father said something about making a divorce difficult but he was not sure what exactly was said.

[REDACTED] said that his parents both went outside and shortly after he

called 911. [REDACTED] said that his parents had fought like this before at their old house in Massachusetts. He did not believe the incidents were reported. I collected his information and ended the interview.

For more information see the general and all associated supplemental reports.

Justin Mason 1712

East Graveyard Patrol

11/10/2019

This report was generated in Mark43 and the e-signature was affixed using the undersigned officer's unique login and password. I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge and belief.

ELECTRONICALLY SIGNED	DATE	PLACE
Justin Mason	11/10/2019	Vancouver Police Department, WA

REPORTING OFFICER SIGNATURE / DATE	SUPERVISOR SIGNATURE / DATE
Justin Mason #1712 Nov 10, 2019 05:54 (e-signature)	Kevin Barton #1551 Nov 10, 2019 05:54 (e-signature)
PRINT NAME	PRINT NAME
Justin Mason #1712	Kevin Barton #1551

Vancouver Police Department

Mark43 RMS Form v2.0 generated by E. Boyle #1778 on Aug 24, 2021 01:13.
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SER-90

Exhibit 2



Vancouver Police Department

Report Number 2019-019034 - *Offense / Incident - -GO~5378036 Report

REPORT DATE / TIME Nov 16, 2019 17:17	EVENT START DATE / TIME - EVENT END DATE / TIME Nov 16, 2019 16:24 - 17:17	REPORT WRITER Zachary Allred #1564
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REPORT TAKEN LOCATION
VILLAGE PARK APARTMENTS, [REDACTED], VANCOUVER, WA 98661

NARRATIVE

Document No: G00053780360001
Subject: NCO VIO SUM 1564
Author: ZACHARY ALLRED (231564)
Date: 2019-11-16 23:37:00

[23RCW01] VPD CASE SUMMARY AND RCW v.150611 _____ CASE SUMMARY [A D] CALLED TO REPORT HER HUSBAND, JOAO DEBORBA, WHO IS THE RESPONDENT IN A VALID AND SERVED NO CONTACT ORDER HAD CALLED AND SENT HER MULTIPLE TEXT MESSAGES. ATTACHMENTS [PHOTO/EVIDENCE: PHOTOGRAPHS OF MESSAGES AND CALL LOG] 20 FIREARMS COLLECTED FOR SAFEKEEPING CONSENT TO SEARCH FORM SIGNED BY JOAO DEBORBA ORPHAN DOCS: COPY OF ORDER COPY OF CONSENT TO SEARCH FORM EVIDENCE SUBMITTED IN TRAQ: [] NONE [X] PHYSICAL EVIDENCE [X] DIGITAL EVIDENCE LIST OF CHARGES [ORDE - 26.50.110(1) - VIOLATION OF ORDER - GM] [] [] RECOMMENDATIONS [FORWARD TO DV PC AND DV UNIT FOR REVIEW] EXTERNAL DISTRIBUTION (Other than options available in Routing) [No] [] [] Other External Distribution: []

Document No: G00053780360002
Subject: NCO VIO DV NAR 1564
Author: ZACHARY ALLRED (231564)
Date: 2019-11-17 00:26:00

On 15 November 2019, at approximately 1820 hours, while on uniformed patrol in a marked patrol car in Vancouver, WA, I was dispatched to the Vancouver West Precinct located at 2800 NE Stapleton Road, in regards to a restraining order violation. It was reported by [A D] her husband, Joao Deborba, had been calling her and there was a served no contact order listing Joao as the respondent.

Upon arrival I contacted [A D] who advised she had started receiving phone calls and text messages on the "WhatsApp" from Joao. [A D] had the valid and served No Contact Order (921074494) which stated "do not contact the protected person, directly, indirectly, in person or through others, by phone, mail, or electronic means." [A D] showed me her phone and the call log shows approximately 20 phone calls from 1624 hours to 1651 hours. The messages in the WhatsApp show multiple text and voice messages from 1308 hours to 1525 hours. I took photographs of both the call logs and the messages in the app and have entered them into TraQ as evidence.

[A D] stated she was afraid to go home; she lives at [REDACTED], as Joao stated he would come over to see the kids. Joao lives at [REDACTED], and [A D] believed he was at his apartment at the time of sending the messages.

[A D] also advised

Joao possessed firearms, but she thought he had turned them in after he was arrested earlier in the week. She did not know how many or what types of firearms he had. I observed in the order it was stated Joao needed to surrender his weapons to comply with the order.

[A D] and I talked about options she had to feel safe and comfortable in her own residence and she stated she had friends coming over to stay with her. She also stated she would be changing the locks as soon as possible.

I conducted a criminal history check on Joao which returned with no prior violations of a no contact order. I spoke with CPL Henderson and advised him of the information about the provided by [A D]. I also advised him about the statement of possibly having firearms and finding no indication the said firearms had been turned over to Law Enforcement. Me, CPL Henderson, and additional units changed location to Joao's apartment to attempt contact.

The lights were on in the unit and I attempted to call him via phone and have him exit the residence, there was no answer and we

REPORTING OFFICER SIGNATURE / DATE
Zachary Allred #1564 Nov 16, 2019 17:17 (e-signature)
PRINT NAME
Zachary Allred #1564

SUPERVISOR SIGNATURE / DATE
Brian Ruder #1423 Nov 17, 2019 00:00 (e-signature)
PRINT NAME
Brian Ruder #1423

attempted to knock on the front door. This again resulted in no answer, Officer Merrill and Officer Mckenzie advised over the radio they had contact with Joao on the raised patio deck on the rear of the apartment. Joao was advised he was under arrest and to come out of the apartment. After spending a few minutes speaking with us he stated he would exit out of the front of the apartment with nothing in his hands.

I returned to the front of the apartment to wait for Joao to exit; however, he did not. Additional units arrived on scene and a perimeter was set up. The Bearcat was also brought to scene to assist in doing PA announcements advising Joao to exit the residence as he was under arrest. For approximately 12 minutes there were multiple announcements advising Joao to exit the residence, eventually he did exit the apartment with nothing in

his hands. He complied with verbal commands and walked down the stairs

from his apartment and I placed him in handcuffs behind his back, checked the handcuffs for fit, and double locked them.

I escorted Joao to my patrol vehicle and placed him in the backseat. I advised Joao again that he was under arrest and read him the Miranda Warnings from my department issued card; I asked Joao if he understood his rights, and he said "yes." I then asked if he would still like to speak to me about what had happened, and he said "yes." I advised Joao he was under arrest for calling and sending messages to A D [REDACTED] Joao advised he thought the judge had stated he could call A D [REDACTED] in order to speak to their children. I advised that was not correct due to the No Contact Order he is not allowed contact with A D [REDACTED]

I asked Joao if he had any firearms, and he advised he did. I asked if they were in the apartment and he confirmed they were. He also advised he attempted to turn the weapons in at the Vancouver East Precinct but came in after hours and was told to return between work hours Monday through Friday. I asked Joao if he would be willing give Law Enforcement consent to enter the residence and collect the firearms in accordance to the order.

Joao stated he would give Police consent and I completed a Voluntary Consent To Search form with Joao. I released him from handcuffs and hesigned the form and wrote down the combination for his gun safe where the firearms were located. After he completed the form and Officer Mckenzie

and I signed the form as witnesses. I then placed Joao in handcuffs using two sets of handcuffs behind his back, checked the handcuffs for fit, and double locked them.

As part of the consent to search form Joao was advised he could revoke his consent at any time during the search. CPL Henderson, Officer Epperson, Officer Merrill, and Officer Mckenzie entered the residence and using the information provided by Joao collected 20 firearms from Joao's gun safe. There was a combination of handguns and long rifles. All of the firearms have been entered into TraQ for safekeeping; I also have entered the Consent to Search Form into evidence as well.

Based on the statements provided by A D [REDACTED] and Joao about the exchange of messages and multiple phone calls; there is probable cause to arrest

Joao for Violation of No Contact Order DV RCW 26.50.110. I transported Joao to Clark County Jail where he was booked for the above listed charge.

RECOMMENDATION:

Forward to DV Unit and DV PC for review

OFFENSE-1

OFFENSE CODE

50992 | PROTECTION ORDERS (WA)

OFFENSE START DATE	OFFENSE END DATE	OFFENSE COMPLETION	DOES EVENT CONTAIN BIAS ELEMENTS?
Nov 16, 2019 00:00	Nov 16, 2019 00:00	<input checked="" type="checkbox"/> COMPLETED <input type="checkbox"/> ATTEMPTED	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

DOMESTIC VIOLENCE	WAS METHOD OF ENTRY FORCED?
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

OFFENSE LOCATION

LOCATION NAME / STREET ADDRESS/LOCATION NAME / APT, UNIT, STE / DESCRIPTION

VILLAGE PARK APARTMENTS, [REDACTED]

CITY	STATE	ZIP	COUNTRY CODE
VANCOUVER	WA	98661	US

LOCATION CATEGORY

Residence/ Home

VICTIMS-1

REPORTING OFFICER SIGNATURE / DATE

Zachary Allred #1564 Nov 16, 2019 17:17 (e-signature)

PRINT NAME

Zachary Allred #1564

SUPERVISOR SIGNATURE / DATE

Brian Ruder #1423 Nov 17, 2019 00:00 (e-signature)

PRINT NAME

Brian Ruder #1423

Vancouver Police Department

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SER-93

Exhibit 3



Vancouver Police Department

Report Number 2019-020307 - *Offense / Incident - -GO~5387569 Report

REPORT DATE / TIME	EVENT START DATE / TIME - EVENT END DATE / TIME	REPORT WRITER
Dec 7, 2019 20:16	Dec 7, 2019 18:04	Gunnar Skollingsberg #1533

REPORT TAKEN LOCATION

VILLAGE ON SEVENTH APARTMENTS, [REDACTED], VANCOUVER, WA 98683

NARRATIVE

Document No: G00053875690001

Subject: CASE SUMMARY

Author: GUNNAR SKOLLINGSBERG (231533)

Date:2019-12-07 20:33:00

[23RCW01] VPD CASE SUMMARY AND RCW v.150611_____ CASE SUMMARY[PC AND BOLO FOR JOAO ON FILE.]ATTACHMENTS[PC STATEMENTCOPY OF DV PACKET]EVIDENCE SUBMITTED IN TRAQ: []NONE []PHYSICAL EVIDENCE [X]DIGITAL EVIDENCELIST OF CHARGES[BURG - 9A.52.025-DV - RESIDENTIAL BURGLARY-DV][INTE - 9A.36.150 - INTERFERE W/REPORT OF DV][ORDE - 26.50.110(1) - VIOLATION OF ORDER - GM][]RECOMMENDATIONS[FWD TO DV UNIT]EXTERNAL DISTRIBUTION (Other than options available in Routing) [No][] []Other External Distribution:[]

Document No: G00053875690002

Subject: NARRATIVE

Author: GUNNAR SKOLLINGSBERG (231533)

Date:2019-12-07 20:35:00

CASE: 2319-20307

My information is derived from:

Suspect 1: Deborba, Joao R. DOB: [REDACTED]/1975

Victim 1: A D [REDACTED] DOB: [REDACTED]/1980

Witness 1: R.O. D. (Juvenile)

Witness 2: D. M. O. (Juvenile)

On 12/7/2019 at 1804 hours I was dispatched to a restraining order violation which had occurred at 12800 [REDACTED] in Vancouver, WA.

A D [REDACTED] A D [REDACTED] called 911 to report her husband Joao Deborba had just violated a DV order and was leaving. Dispatch confirmed there was a served and valid order in which Joao was prohibited from contacting A D [REDACTED] (9Z1074494).

I arrived and contacted A D [REDACTED] in the residence. She was visibly scared as she was shaking, crying, and pacing back and forth.

A D [REDACTED] reported that she had left the residence to get McDonalds for her four children's dinner, leaving her 12 year old son to watch the other younger siblings. Upon her return Joao was in her apartment with the children.

A D [REDACTED] told Joao to get out and leave multiple times and he refused multiple times. At one point Joao began yelling and punching himself in the head and face repeatedly. A D [REDACTED] said he does this sometimes and went on to say he is bi-polar and depressed.

A D [REDACTED] then said she was calling the police and reached for the cell phone in her pocket. Joao then grabbed her around her waist and asked her not to call police. She was not hurt by being grabbed and she believed it was solely for the purpose of preventing her from getting her phone out.

She then kicked away from him and ran outside screaming for help. Joao then fled the scene to the north and got into his vehicle, a dark blue 2006 Chrysler PT Cruiser displaying Washington license plates BOU2669. The vehicle had been parked on the south side of SE 5th St facing east, and

Joao drove east from the scene.

A D [REDACTED] completed a sworn DV victim's statement and the threat

assessment score was 15. I notified Sgt. Viles of the score. I read her the perjury statement verbatim and she said she understood, then

REPORTING OFFICER SIGNATURE / DATE	SUPERVISOR SIGNATURE / DATE
Gunnar Skollingsberg #1533 Dec 7, 2019 20:16 (e-signature)	Kevin Barton #1551 Dec 8, 2019 00:00 (e-signature)
PRINT NAME	PRINT NAME
Gunnar Skollingsberg #1533	Kevin Barton #1551

Vancouver Police Department

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signed the form. I included this form in TRAQ as evidence.

I spoke with R.O.D. who stated he was home and watching the children while his mother, A D went to get dinner. He heard a knock at the door

and thought it was his mother returning with food. He opened the door and saw Joao, who then walked in the residence. A D entered a few

minutes later and she told him to leave. He refused and she tried to call police. He got on his knees and grabbed her, begging her to not call police.

A D told the children to go to the back bedroom and they did. R.O.D. then heard his mother call for "help" from outside and the children ran out because they thought she "was being kidnapped". A D then ran back inside and Joao drove away to the east.

Officers spoke with a neighbor (D. M. O.) who stated they heard screaming then saw A D who appeared scared, and one unknown bald male wearing dark clothing run from apartment H3. The male then ran north and Alessandra ran south. The children came out of back inside.

Based on the above I have probable cause to charge Joao R. Deborba with:

1- One count of violation of an order-domestic violence (RCW 26.50.110(1)) 2- One count of residential burglary domestic violence (RCW 9A.52.025)

3- One count of interfering with reporting of domestic violence (RCW 9A.36.150)

Attempts to locate and arrest Joao were unsuccessful. Recommend forward to DVPC for issuance of a warrant and charging of Joao.

During this incident Joao and A D children 12 year old R D 11 year old E D 5 year old G D and 4 year old D D were all present.

OFFENSE-1

OFFENSE CODE

22991 | BURGLARY-RESIDENCE

OFFENSE START DATE

Dec 7, 2019 00:00

OFFENSE END DATE

Dec 7, 2019 00:00

OFFENSE COMPLETION

☒ COMPLETED
☐ ATTEMPTED

DOES EVENT CONTAIN BIAS ELEMENTS?

☐ YES ☒ NO

DOMESTIC VIOLENCE

☒ YES ☐ NO

WAS METHOD OF ENTRY FORCED?

☐ YES ☒ NO

OFFENSE LOCATION

LOCATION NAME / STREET ADDRESS/LOCATION NAME / APT, UNIT, STE / DESCRIPTION

VILLAGE ON SEVENTH APARTMENTS, [REDACTED]

CITY

VANCOUVER

STATE

WA

ZIP

98683

COUNTRY CODE

US

LOCATION CATEGORY

Residence/ Home

VICTIMS-1

VICTIMS-1 NAME (LAST, FIRST MIDDLE)

V-1 A D O

DOB / ESTIMATED AGE RANGE

1980- [REDACTED]

SEX

Female

RACE / ETHNICITY

White / Not Hispanic Or Latino

PHONE NUMBER

[REDACTED] (Mobile)

HOME ADDRESS

VILLAGE ON SEVENTH APARTMENTS, [REDACTED], VANCOUVER, WA 98683

SUSPECTS-1

SUSPECTS-1 NAME (LAST, FIRST MIDDLE)

S-1 DEBORBA, JOAO RICARDO

DOB / ESTIMATED AGE RANGE

1975- [REDACTED]

SEX

Male

RACE / ETHNICITY

White / Not Hispanic Or Latino

PHONE NUMBER

[REDACTED] (Mobile)

HOME ADDRESS

VILLAGE PARK APARTMENTS, [REDACTED], VANCOUVER, WA 98661

WITNESS-1

REPORTING OFFICER SIGNATURE / DATE

Gunnar Skollingsberg #1533 Dec 7, 2019 20:16 (e-signature)

PRINT NAME

Gunnar Skollingsberg #1533

SUPERVISOR SIGNATURE / DATE

Kevin Barton #1551 Dec 8, 2019 00:00 (e-signature)

PRINT NAME

Kevin Barton #1551

Vancouver Police Department

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WITNESS-1 NAME (LAST, FIRST MIDDLE)		DOB / ESTIMATED AGE RANGE	
W-1 RD O		2007-	
SEX	RACE / ETHNICITY	PHONE NUMBER	
Male	White / Unknown	(Mobile)	
HOME ADDRESS			
VILLAGE ON SEVENTH APARTMENTS, VANCOUVER, WA 98683			
WITNESS-2			
WITNESS-2 NAME (LAST, FIRST MIDDLE)		DOB / ESTIMATED AGE RANGE	
W-2 OR , DA M		2005	
SEX	RACE / ETHNICITY	PHONE NUMBER	
Female	Unknown / Hispanic Or Latino	(Mobile)	
HOME ADDRESS			
VANCOUVER, WA 98683			
INVOLVED OTHER-1			
INVOLVED OTHER-1 (PERSON)		SEX	RACE / ETHNICITY
O-1 ED		Male	White / Not Hispanic Or Latino
INVOLVED OTHER-2			
INVOLVED OTHER-2 (PERSON)		SEX	RACE / ETHNICITY
O-2 GD GD		Female	White / Not Hispanic Or Latino
INVOLVED OTHER-3			
INVOLVED OTHER-3 (PERSON)		SEX	RACE / ETHNICITY
O-3 DD		Male	White / Not Hispanic Or Latino
INVOLVED OTHER-4			
INVOLVED OTHER-4 (PERSON)		DOB / ESTIMATED AGE RANGE	
O-4 OROZCO LOPEZ, ALVARO		1982	
SEX	RACE / ETHNICITY	PHONE NUMBER	
Male	Unknown / Hispanic Or Latino	(Mobile)	
HOME ADDRESS			
VILLAGE ON SEVENTH APARTMENTS, , VANCOUVER, WA 98683			

ATTACHMENTS ADDENDUM

FILE NAME	UPLOAD DATE/TIME	UPLOADED BY
3582324.pdf	Nov 5, 2020 01:54	L. Data Migration
3582336.pdf	Nov 5, 2020 01:54	L. Data Migration
3582337.pdf	Nov 5, 2020 01:54	L. Data Migration
3582338.pdf	Nov 5, 2020 01:54	L. Data Migration
3582341.pdf	Nov 5, 2020 01:54	L. Data Migration
GO_2019_20307.pdf	Oct 28, 2020 15:29	L. Data Migration

This report was generated in Mark43 and the e-signature was affixed using the undersigned officer's unique login and password. I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge and belief.

ELECTRONICALLY SIGNED	DATE	PLACE
Gunnar Skollingsberg	12/07/2019	Vancouver Police Department, WA

REPORTING OFFICER SIGNATURE / DATE	SUPERVISOR SIGNATURE / DATE
Gunnar Skollingsberg #1533 Dec 7, 2019 20:16 (e-signature)	Kevin Barton #1551 Dec 8, 2019 00:00 (e-signature)
PRINT NAME	PRINT NAME
Gunnar Skollingsberg #1533	Kevin Barton #1551

Exhibit 4



Vancouver Police Department

Report Number 2020-008864 - *Offense / Incident - -GO~5461597 Report

REPORT DATE / TIME Jun 2, 2020 20:47	EVENT START DATE / TIME - EVENT END DATE / TIME Jun 2, 2020 16:00	REPORT WRITER Clinton Holbrook #1744
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REPORT TAKEN LOCATION

VILLAGE ON SEVENTH APARTMENTS, 12800 SE 7TH ST, VANCOUVER, WA 98683

NARRATIVE

Document No: GO0054615970001
 Subject: CASE SUMMARY AND RCW
 Author: CLINTON HOLBROOK (231744)
 Date:2020-06-03 04:45:00

[23RCW01] VPD CASE SUMMARY AND RCW v.150611_____ CASE SUMMARY [A D] STATED THAT HER EX-HUSBAND, JOAO DEBORG, TEXT MESSAGEDHER, CAME TO HER APARTMENT AND HAD ASSAULTED HER. THERE IS AN ACTIVE AND VALID NO CONTACT ORDER (921074494) WITH [A D] AS THE PETITIONER AND JOAO AS THE RESPONDENT. PROBABLE CAUSE WAS FOUND TO CHARGE JOAO WITH VIOLATION OF ORDER(MISDEMEANOR), VIOLATION OF ORDER (FELONY) AND ASSAULT IV - DV. JOAO BOOKED TO CCSO JAIL. ATTACHMENTS[-VPD DV SUPPLEMENTAL REPORT] EVIDENCE SUBMITTED IN TRAQ: [] NONE [X] PHYSICAL EVIDENCE[X] DIGITAL EVIDENCE LIST OF CHARGES[ORDE - 26.50.110(4) - VIOLATION OF ORDER W/ASSAULT - CLASS C FEL][ORDE - 26.50.110(1) - VIOLATION OF ORDER - GM][ORDE - 26.50.110(1) - VIOLATION OF ORDER - GM][ASSA - 9A.36.041-DV - ASSAULT IV - DV] RECOMMENDATIONS[CLOSED BY ARREST.] EXTERNAL DISTRIBUTION (Other than options available in Routing) [No] [] [] [] Other External Distribution:[] _____

Document No: GO0054615970002
 Subject: VIOLATION OF ORDER NARRATIVE
 Author: CLINTON HOLBROOK (231744)
 Date:2020-06-03 04:52:00

DISPATCH: On 6-2-2020 I was working uniformed patrol for the City of Vancouver Police Department assigned as 2B44. At approximately 2050 hours I was dispatched to 12800 Se 7th St #H3, Vancouver, Clark County, WA for a reported restraining order violation. INFORMATION: I made telephonic contact with the RP, identified as [A D] [A D] informed me that her ex-husband, JOAO DEBORBA, had text messaged her earlier in the afternoon multiple times and had physically come to her apartment. [A D] further stated that JOAO had assaulted her and had caused injury while he had been at her apartment. [A D] is the petitioner in a served and valid No Contact Order with JOAO as the respondent (921074494). The order states that JOAO is not to communicate with [A D] to include personal, written or telephonically. The order further states that JOAO is required to stay away from [A D] residence and that he is restrained from assaulting [A D]. I made contact with [A D] at her apartment. I observed that [A D] had an approximately half inch abrasion to the underside of her left forearm. The abrasion appeared fresh due to its bright red coloration. The abrasion wasn't actively bleeding and [A D] stated that she didn't need any medical attention. I observed no other injuries to [A D]. CONTACT WITH [A D] [A D] stated that on the afternoon of 6-2-2020 (approximately 1610 hours) she received multiple text messages from JOAO. The couple had separated the previous year and had four children together. JOAO texted [A D] as he wanted to come to her apartment while she was at work and spend time with their children. [A D] stated that JOAO had constantly texted or called her since the No Contact Order had been served and he always contacted her stating that he wanted to see the children. [A D] had replied to JOAO's messages several times and had allowed him to see the children but he would always bring up their relationship and how he wanted them to get back together. [A D] texted JOAO back and stated that he could go to her apartment while she was at work but that he needed to leave before she got home. At approximately 1930 hours, [A D] returned to her apartment complex in which JOAO was still present. JOAO made contact with [A D] outside of her apartment complex. [A D] stated that her two youngest children, [G D] (six years old) and [D D] (four years old), were also outside with JOAO. JOAO started to plead with [A D] that they needed to get back together for the children. [A D] told JOAO "no" multiple times and that he needed to leave. On being told no, JOAO became angry and started to yell loudly at [A D]. JOAO then grabbed both of [A D] arms below the elbow and held

REPORTING OFFICER SIGNATURE / DATE Clinton Holbrook #1744 Jun 2, 2020 20:47 (e-signature) PRINT NAME Clinton Holbrook #1744	SUPERVISOR SIGNATURE / DATE Frank Gomez #1415 Jun 3, 2020 00:00 (e-signature) PRINT NAME Frank Gomez #1415
--	---

Vancouver Police Department

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her stating that they needed to get back together. A D told JOAO to let her go in which he then pushed her. The push caused A D to fall backwards and lose her balance. A D fell onto her daughter's bicycle causing the injury to her left forearm. A D immediately got to her feet, grabbed D D and GABRIELLA and started to run towards their apartment in which JOAO followed. A D was able to get inside of her apartment with her children and lock the door. A D stated that her other two children, R D R D (thirteen years old) and E D (eleven years old), were already inside of the apartment. JOAO came to the apartment door and started to knock multiple times and ring A D Ring doorbell (which recorded JOAO at the door of the apartment). JOAO continued to yell loudly at A D but didn't attempt to enter the apartment with force. JOAO eventually left the area. INFORMATION: I asked A D if she would be willing to provide a written statement about the incident in which she stated that she would. A D filled out the VPD Domestic Violence Victim Statement. Before writing her statement, I read verbatim the perjury statement to A D. A D stated she understood the perjury statement with an audible "yes". I took photographs of A D. The photographs were later uploaded to TraQ. A D showed me the Ring Doorbell footage of JOAO at her apartment door. I observed JOAO enter the walkway towards A D door and knock on her door several times. I positively identified JOAO on the footage from a recent booking photograph of him. A D provided me with the footage in which uploaded to TraQ. A D showed me the text messages that she received from JOAO on 6-2-2020. The dialogue between the two was in Portuguese in which A D translated that JOAO was asking her to come to the apartment in order to see their children. I took photographs of the text messages and uploaded them to TraQ. I made a copy of A D written statement and attached it to this report as an orphan document. The original was placed into Property and Evidence as evidence. ACTION TAKEN: After my contact with A D I made contact with JOAO at his apartment (3214 NE 62nd Ave #J6). JOAO's roommate answered the door and stated that he didn't know if JOAO was home but would check. JOAO came to the door shortly after. JOAO came to the door of the apartment and partially stuck his head and shoulders out of the door out onto the landing. I asked JOAO if he would speak with me in which he stated that he needed to get some shoes. I asked JOAO if I could come inside the apartment in which he stated that I could. I entered the apartment and placed JOAO into handcuffs (checked for fit / double locked). I moved JOAO to my patrol vehicle. I read to JOAO his Miranda Rights from a department issued, pre-printed card. JOAO stated that he understood his rights with an audible "yes" and that he wanted to answer questions in regards to the incident with A D. CONTACT WITH JOAO DEBORBA: JOAO stated that he did have a served no contact order and knew that he wasn't supposed to contact A D. JOAO stated that he was just trying to help A D with child support and that was the reason why he made contact with her. JOAO informed me that he wanted to give A D money for the children. JOAO stated that he had text messaged A D earlier on 6-2-2020 and asked if he could come to the apartment. A D replied to him that he could while she was at work. JOAO went to the apartment complex and stated that he played with the children outside. JOAO stated that his two of his children told him that their bicycles were covered in spider webs so he asked them to go and get a broom so he could sweep them off. JOAO cleaned off the bicycles and left them on the grassy area in front of the apartment complex. JOAO stated that A D returned to the apartment complex and they started to talk. JOAO said that the conversation was nice between them and they talked about him supporting the children. At one point, A D had gone inside her apartment and then returned. On returning, A D had tripped on the children's bicycle and had fallen. JOAO stated that he and his children laughed at A D falling over the bicycles and had done so light heartedly. A D became angry, took the children and went inside the apartment. JOAO stated that at no time did he push A D and didn't assault her. ACTION TAKEN: Probable cause was found to charge JOAO with one count of Violation of Order (RCW 26.50.110) for the text messages he sent to A D early on the afternoon of 6-2-2020, one count of Domestic Violence Assault IV (RCW 9A.36.041) for assaulting A D by pushing her and one felony count of Violation of Order (RCW 26.50.110(4)) as JOAO had assaulted A D while in violation of a served and valid No Contact Order at the apartment complex. I transported JOAO to CCSO jail in which he was booked without incident. I informed Sgt GOMEZ of the incident. I made contact with CPS and informed them of the incident as the children had been present but not involved. I made contact with CPS agent MICHELLE WU. The intake number was listed as 4371501. CASE STATUS: Closed by arrest.

OFFENSE-1

OFFENSE CODE

50992 | PROTECTION ORDERS (WA)

OFFENSE START DATE

Jun 2, 2020 00:00

OFFENSE END DATE

Jun 2, 2020 00:00

OFFENSE COMPLETION

☒ COMPLETED
☐ ATTEMPTED

DOES EVENT CONTAIN BIAS ELEMENTS?

☐ YES ☒ NO

DOMESTIC VIOLENCE

☒ YES ☐ NO

WAS METHOD OF ENTRY FORCED?

☐ YES ☒ NO
OFFENSE LOCATION

LOCATION NAME / STREET ADDRESS/LOCATION NAME / APT, UNIT, STE / DESCRIPTION

VILLAGE ON SEVENTH APARTMENTS, 12800 SE 7TH ST, H3

REPORTING OFFICER SIGNATURE / DATE

Clinton Holbrook #1744 Jun 2, 2020 20:47 (e-signature)

PRINT NAME

Clinton Holbrook #1744

SUPERVISOR SIGNATURE / DATE

Frank Gomez #1415 Jun 3, 2020 00:00 (e-signature)

PRINT NAME

Frank Gomez #1415

Vancouver Police Department

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Exhibit 5



Vancouver Police Department

Report Number 2021-007757 - *Offense / Incident Report

REPORT DATE / TIME

Apr 15, 2021 21:32

EVENT START DATE / TIME - EVENT END DATE / TIME

Apr 15, 2021 18:48

REPORT WRITER

Christopher Douville #1517

ASSISTING PERSONNEL / TYPE(S)

Timothy Lear #1233 (Investigative Assistance)

VILLAGE PARK APARTMENTS, [REDACTED], VANCOUVER, WA 98661

NARRATIVE**Synopsis**

Defendant allegedly assaulted victim [J.M.] by using pushing him with a two handed shove to his upper chest, causing him pain, as he stood between the victims and the exit of the residence. Defendant and both victims lived together at the listed address on the listed date and time. Victims [J.M.] and Wesley said they were afraid of being assaulted after the defendant allegedly said, "You aren't going anywhere." I later attempted to contact the defendant via telephone, but he refused to meet with me in person. Defendant is outstanding.

Narrative

I responded to an "assault just occurred" call for service at [REDACTED], on 04152201 at about 1902 hours after the complainant [T.W.] called to report that he room mate, whom I later identified from [T.W.]'s statement and premise history at the residence as Joao Deborba, assaulted her room mate, [J.M.]. I later learned that [T.W.], Deborba, and [J.M.] were all room mates at the residence together, and that [T.W.] and [J.M.] were involved in a significant dating relationship.

On the listed date and time the City of Vancouver employed me as a state certified police officer, empowered to enforce state law and local ordinance. I wore full uniform and operated a marked patrol vehicle on this date and time, responding to radio call sign 2S21.

I arrived on scene shortly after Ofcs. Lear and Suarez. Please see their reports for further information. When I arrived, I spoke with [T.W.] and [J.M.], who were waiting for me in the parking lot of the apartment complex. Wesley and [J.M.] appeared calm and sober when I spoke with them. [T.W.] told me that she had been sitting with [J.M.] on the couch in the living room of the apartment, when Deborba entered. [T.W.] told me that Deborba said, "hi," to the two of them, and while [J.M.] said, "hi," back to him, [T.W.] admitted that she said, "bye," to him, in a dismissive tone. [T.W.] said that there had been tensions between the three of them, and she alleged that Deborba had been pocketing money that she and [J.M.] had given to him to pay the rent, and that she discovered recently to this report that they owed the apartment management nearly \$4,000 in back rent.

[T.W.] said that Deborba went to his room, but returned to the living area about five minutes later and said words to the effect of, "That's fine, I don't have to speak to you." [T.W.] said that she told him, "I don't want to talk to you," or, "I wasn't speaking to you," and when she said this Deborba exited the residence for about five minutes, but that when he returned about five minutes later, he said that he was calling the police.

I asked [T.W.] why Deborba would call the police, and she told me that he was trying to get her and [J.M.] in trouble, and that in the past he had alleged that [J.M.] was armed with a knife and had participated in at least one road range incident. [T.W.] said that she told Deborba, "Fine, I can call the police too!" She said that she told Deborba that she knew that he had been violating the terms of a served No Contact Order with the mother of his children, and that she knew that he had been harassing the apartment management.

[T.W.] said that this infuriated Deborba, and both she and [J.M.] said that he walked to where the two stood in the living room and came "within inches," according to [T.W.], of their faces. She said that he began screaming at them about talking with the apartment manager, and [T.W.] said that she cut Deborba off by saying, "We're done living with you, go talk to the manager."

REPORTING OFFICER SIGNATURE / DATE

Christopher Douville #1517 Apr 16, 2021 00:38 (e-signature)

PRINT NAME

Christopher Douville #1517

SUPERVISOR SIGNATURE / DATE

Clesson Werner #1494 Apr 16, 2021 02:55 (e-signature)

PRINT NAME

Clesson Werner #1494

J.M. said that Deborba was scaring him, because he was getting so loud and angry, and he told me, "I knew it was my time to leave." He said that he attempted to walk around Deborba, but that Deborba pushed him with a two handed shove to his upper chest, causing him mild pain and discomfort. He said that although Deborba did not knock him down, he did fall back several feet. J.M. said that after Deborba pushed him back, he turned and locked the door to the apartment, and said words to the effect of, "You're not going anywhere!"

I asked J.M. what he thought would happen after Deborba locked the door, and he said, "I thought I was about to get hit. I thought about running out the back sliding door." I asked T.W. what she thought about Deborba locking the door, and she told me that she was terrified that she would be attacked; T.W. said that she began crying in fear, and that about 15 seconds later Deborba opened the door and left, screaming in the parking lot, "They're trying to kill me!"

I asked T.W. why Deborba would scream such a thing, and she told me that she believed Deborba was trying to frame the confrontation to make himself appear the victim. I asked her if she or J.M. ever retaliated against him, but she and J.M. both said that they did not. T.W. and J.M. told me that Deborba got into his black Volkswagen Jetta and left the area.

I asked T.W. and J.M. if Deborba had any access to firearms. Both nodded vehemently, and said that Deborba worked at a firearms retailer, though he was not allowed to possess firearms. The two thought that Deborba was a convicted felon, but when I asked CRESA to check his status, the operator told me that while he was not a convicted felon, he was the respondent in an NCO that prohibited him from possessing weapons. J.M. said that Deborba had turned in his weapons after a recent SWAT search warrant at the residence, but said that he still had a bolt action rifle chambered in 7.62 x 39, capable of being dismantled into several parts. J.M. said that Deborba often carried the rifle in a backpack, and described it as a black rifle with a synthetic stock, but a gold barrel and a scope or similar optic. J.M. said that he last saw Deborba with the rifle about four weeks prior to my response, and maintained that the rifle was not involved in this call for service. I did not believe I had PC to petition the Court for a search warrant for Deborba's bedroom based on the information that I had at the time.

I asked J.M. to complete a written statement, which he did. I provided J.M. and T.W. a DV resource sheet. I completed a risk assessment for J.M. and T.W., and the threat score was "increased." J.M. and T.W. agreed to go to their friend's residence that evening to maintain separation from Deborba, who was still outstanding.

Shortly after I cleared the call, I received a phone call from Ofc. Suarez stating that Deborba was calling into 911, asking to speak with an officer. I called Deborba from my work phone and asked him what had happened. He told me that there had been a heated argument at his residence, and he had left the area. I asked him if anyone had pushed anyone locked anyone inside the residence. He told me that nothing of the kind had happened. I asked him what caused the disagreement. He told me that he had been upset because J.M. and T.W. had allegedly been using his things, and that the two had agreed to leave his apartment on the last day of April.

Deborba told me that he had entered the residence and that T.W. sarcastically said, "hi," to him, but then quickly escalated to screaming. Deborba said, "I lost it," and said he started screaming as well. He said that he exited the residence and began yelling for help. I asked him why he would yell for help if there had been mere shouting in the residence, and he told me, "I felt trapped." I asked him if anyone restrained him or curtailed his movements. He said, "no." He said that he thought that J.M. was going to stab him. I asked him why he thought that, and he told me, "I don't know."

I asked Deborba if he would meet with me, and he refused. We ended the call shortly thereafter.

I later compiled a BOLO and a PC declaration, as I believe PC exists to charge Deborba for Assault IV/ DV and Unlawful Imprisonment / DV. Please see other officers' respective reports for further details.

Attachments

PC Declaration

Photo

BOLO to CRESA

Recommendation

Forward to DV Unit

Douville/1517

REPORTING OFFICER SIGNATURE / DATE

Christopher Douville #1517 Apr 16, 2021 00:38 (e-signature)

PRINT NAME

Christopher Douville #1517

SUPERVISOR SIGNATURE / DATE

Clesson Werner #1494 Apr 16, 2021 02:55 (e-signature)

PRINT NAME

Clesson Werner #1494

The Honorable David G. Estudillo

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,
Plaintiff,

v.

JOAO RICARDO DEBORBA,
Defendant.

NO. CR22-5139-DGE

UNITED STATES' TRIAL SUBMISSION

During its trial presentation at the February 5, 2024, stipulated facts and bench trial, the United States presented the following slides, which the government is filing per the Court's order.

DATED this 5th day of February, 2024.

Respectfully submitted,

TESSA M. GORMAN
United States Attorney

s/Max B. Shiner

Max B. Shiner
Amanda McDowell
Assistant United States Attorneys
United States Attorney's Office

United States v. Joao Ricardo DeBorba

Count 1: Unlawful Possession of Firearms and Ammunition (5/6/2022)

- ✓ DeBorba knowingly possessed firearm and ammo
 - ¶ 23 & Ex. 12 (photos): SW of apartment
 - ¶ 30 & Ex. 17 (SA Taylor Report): reviewed pictures and “admitted that the firearms in the picture were his”



Ex. 12, Bates
08948; 08960

Count 1: Unlawful Possession of Firearms and Ammunition (5/6/2022)

✓ Interstate Nexus

- ¶ 28: ATF SA Grigore determined nexus
- ¶ 28: DeBorba stipulates

✓ DeBorba knew he was a non-citizen illegally and unlawfully in United States, (g)(5)

- ¶ ¶ 2-6, 30: DeBorba admits that “he was aware at all times relevant to this case that he did not have legal status in the United States.” ¶ 6

Count 1: Unlawful Possession of Firearms and Ammunition (5/6/2022)

✓ Subject to a court order meeting the requirements of 18 U.S.C. § 922(g)(8)(A)-(C)

- ¶¶ 18-19 & Ex. 9: Oct. 14, 2020 NCO
 - Expired 10/14/2022
- ¶¶ 20-21 & Ex. 11: Jan. 31, 2022 NCO
 - Expires 1/31/2027
- ¶¶ 19, 21: "A.D. is DeBorba's "intimate partner."

The image shows two copies of a Domestic Violence No Contact Order from the Superior Court of the State of Washington, County of Clark. The left copy is dated 10/14/2022 and the right copy is dated 1/31/2027. Both orders are issued against JOAO RICARDO DEBORBA (Defendant) and in favor of the State of Washington (Plaintiff). The orders prohibit the defendant from causing physical harm, sexual assault, or stalking the protected person, and from possessing firearms. The right copy includes a 'CLERK'S ACTION REQUIRED' section with checkboxes for 'PRE TRIAL' and 'POST CONVICTION'.

Count 2: Unlawful Possession of Firearms and Ammunition (11/16/2019)

- ✓ DeBorba knowingly possessed firearm and ammo
 - ¶ 16 & Ex. 7 (VPD Allred report): Consent to search apartment; combo to gun safe
 - *Id.* “DeBorba stated he did [possess firearms] and confirmed they were located in his apartment.”
 - *Id.* Firearms and ammo listed in Ct. 2 were located

Count 2: Unlawful Possession of Firearms and Ammunition (11/16/2019)

✓ Interstate Nexus

- ¶ 17: ATF SA Grigore determined nexus
- *Id.*: DeBorba stipulates

✓ DeBorba knew he was a non-citizen illegally and unlawfully in United States, (g)(5)

- ¶ ¶ 2-6, 30: DeBorba admits that “he was aware at all relevant times relevant to this case that he did not have legal status in the United States.”

✓ Subject to a court order meeting the requirements of 18 U.S.C. § 922(g)(8)(A)-(C)

- ¶¶ 14-15 & Ex. 6: Nov. 14, 2019 NCO
- *Id.* Expires 11/12/2024

COUNTY OF CLALAM STATE OF WASHINGTON I, _____, Clerk of said Court, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears from the records of said Court. Witness my hand and seal at the County Seat of said County, Washington, this _____ day of _____, A.D. 19____ _____ Deputy Clerk	FILED Clallam County District Court Nov 14, 2019
---	---

DISTRICT COURT OF WASHINGTON FOR THE COUNTY OF CLALLAM

STATE OF WASHINGTON COUNTY OF CLALLAM

Vs.

DEBORBA JOAO RICARDO

DOB [REDACTED] Defendant

No Contact Order

No 92-174042 VPD CN

Plaintiff:

Domestic Violence No-Contact Order

(c) = NOCON, Superior cts = ORNC, ORWP(NP)
Clerk's action required: Para 9

1. Protected Person's Identifiers:

Name (Last, First Middle)	Name (Last, First Middle)
A.D.	
DOB F W	DOB Gender Race

Defendant's Identifiers:

Date of Birth	Gender M	Race W

2. Defendant:

- A. do not cause, attempt, or threaten to cause bodily injury to, assault, sexually assault, harass, stalk, or keep under surveillance the protected person;
- B. do not contact the protected person, directly, indirectly, in person or through others, by phone, mail, or electronic means, except for mailing or service of process of court documents through a third party, or contact by the defendant's lawyers;
- C. do not knowingly enter, remain, or come within 200 ft. (_____ feet if no distance entered) of the protected person's residence, school workplace, other _____;
- D. other: Third Party contact allowed regarding child welfare and to arrange child visits, if any.
Electronic communication with children allowed, if children have their own cell phone.

3. Firearms, Weapons, and Concealed Pistol License, Defendant:

- [X] does not own, possess, or control a firearm. (RCW 9A.1.040).
- [] do not possess, obtain, or possess a firearm, other dangerous weapons, or concealed pistol licenses. (RCW 9A.1.000)
- [X] shall immediately surrender all firearms and other dangerous weapons within the defendant's possession or control and any concealed pistol license. Comply with the Order to Surrender Weapons filed separately. (RCW 9A.1.000)

4. This no-contact order expires on 11/11/2024 Five years from today if no date is entered

Warning: Violation of this order will actual notice of its terms is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest, any assault, drive-by shooting, or reckless endangerment that is a violation of this order is a felony. You can be arrested even if the person protected by this order invites or allows you to violate the order's provisions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order upon written request.

Count 3: Unlawful Possession of a Firearm (4/14/2019)

- ✓ DeBorba knowingly possessed firearm
 - ¶¶ 12-13: WSP traffic stop
 - *Id.* “DeBorba told Officer ... that his Glock 26 handgun was in the backpack ... Officer ... found the Glock 26.”
- ✓ Interstate Nexus
 - ¶ 13: ATF SA Grigore determined nexus
 - *Id.*: DeBorba stipulates
- ✓ DeBorba knew he was a non-citizen illegally and unlawfully in United States, (g)(5)
 - ¶¶ 2-6, 30: DeBorba admits that “he was aware at all relevant times relevant to this case that he did not have legal status in the United States.”

Count 4: False Statement During Purchase of Firearm (5/8/2019)

- ✓ Brass Tacks Munitions = licensed firearms dealer
 - ¶ 11
- ✓ In connection with acquiring a Rock Island Armory model M200 .38 special caliber handgun, DeBorba made a false statement
 - ¶ 11; Ex. 4 (4473; Firearms Transaction Record)

U.S. Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives

OMB No. 1540-0029

Firearms Transaction Record

WARNING: You may not receive a firearm if prohibited by Federal or State law. The information you provide will be used to determine whether you are prohibited from receiving a firearm. Certain violations of the Gun Control Act, 18 U.S.C. 921 et. seq., are punishable by up to 10 years imprisonment and/or up to a \$250,000 fine.

Read the Notices, Instructions, and Definitions on this form. Prepare in original only at the licensed premises ("licensed premises" includes business temporarily conducted from a qualifying gun show or event in the same State in which the licensed premises is located) unless the transaction qualifies under 18 U.S.C. 922(c). All entries must be handwritten in ink. "PLEASE PRINT."

Section A - Must Be Completed Personally By Transferee/Buyer

1. Transferee's/Buyer's Full Name (If legal name contains an initial only, record "ID" after the initial. If no middle initial or name, record "NMN").
Last Name (including suffix e.g., Jr., Sr., II, III): DEBORBA First Name: JOAO Middle Name: RICARDO

2. Current State of Residence and Address (U.S. Postal abbreviations are acceptable. Cannot be a post office box.)
Number and Street Address: 1200 SE 7th, Apt #E1 City: VANCOUVER County: CLARK State: WA ZIP Code: 98082

3. Place of Birth
U.S. City and State: -OR- Foreign Country: BRAZIL

4. Height: 5 ft. 7 in. 5. Weight: 190 (Lbs.) 6. Sex: ☒ Male ☐ Female 7. Birth Date: Month 01 Day 01 Year 1991

8. Social Security Number (Optional, but will help prevent misidentification): [REDACTED] 9. Unique Personal Identification Number (UPIN), if applicable (See Instructions for Question 9.): [REDACTED]

10.a. Ethnicity: ☒ Hispanic or Latino ☐ Not Hispanic or Latino 10.b. Race (In addition to ethnicity, select one or more race in 10.b. Both 10.a. and 10.b. must be answered.)
☐ American Indian or Alaska Native ☐ Black or African American ☒ White ☐ Asian ☐ Native Hawaiian or Other Pacific Islander

11. Answer the following questions by checking or marking "yes" or "no" in the boxes to the right of the questions.

	Yes	No
a. Are you the actual transferee/buyer of the firearm(s) listed on this form? Warning: You are not the actual transferee/buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual transferee/buyer, the licensee cannot transfer the firearm(s) to you. <i>Exception:</i> If you are picking up a repaired firearm(s) for another person, you are not required to answer 11.a. and may proceed to question 11.b. (See Instructions for Question 11.a.)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Are you under indictment or information in any court for a felony, or any other crime for which the judge could imprison you for more than one year? (See Instructions for Question 11.b.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Have you ever been convicted in any court of a felony, or any other crime for which the judge could have imprisoned you for more than one year, even if you received a shorter sentence including probation? (See Instructions for Question 11.c.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Are you a fugitive from justice? (See Instructions for Question 11.d.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance? Warning: The use or possession of marijuana remains unlawful under Federal law regardless of whether it has been legalized or decriminalized for medicinal or recreational purposes in the state where you reside.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Have you ever been adjudicated as a mental defective OR have you ever been committed to a mental institution? (See Instructions for Question 11.f.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Have you been discharged from the Armed Forces under dishonorable conditions?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h. Are you subject to a court order restraining you from harassing, stalking, or threatening your child or an intimate partner or child of such partner? (See Instructions for Question 11.h.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i. Have you ever been convicted in any court of a misdemeanor crime of domestic violence? (See Instructions for Question 11.i.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>

12.a. Country of Citizenship: (Check/Lit more than one, if applicable. Nationals of the United States may check U.S.A.)
☒ United States of America (U.S.A.) ☐ Other Country/Countries (Specify): _____

12.b. Have you ever renounced your United States citizenship? Yes ☐ No ☒

12.c. Are you an alien illegally or unlawfully in the United States? Yes ☐ No ☒

12.d.1. Are you an alien who has been admitted to the United States under a nonimmigrant visa? (See Instructions for Question 12.d.) Yes ☐ No ☒

12.d.2. If "yes", do you fall within any of the exceptions stated in the instructions? ☒ N/A ☐

13. If you are an alien, record your U.S.-Issued Alien or Admission number (A#: USCIS, or I-94#): _____

Previous Editions Are Obsolete

Transferee/Buyer Continue to Next Page

ATF Form 4473 (2004) 004RR

I certify that my answers in Section A are true, correct, and complete. I have read and understand the Notices, Instructions, and Definitions on ATF Form 4473. I understand that answering "yes" to question 11.a. if I am not the actual transferee-buyer is a crime punishable as a felony under Federal law, and may also violate State and/or local law. I understand that a person who answers "yes" to any of the questions 11.b. through 11.i. and/or 12.b. through 12.c. is prohibited from purchasing or receiving a firearm. I understand that a person who answers "yes" to question 12.d.1. is prohibited from receiving or possessing a firearm, unless the person answers "yes" to question 12.d.2. and provides the documentation required in 18.c. I also understand that making any false oral or written statement, or exhibiting any false or misrepresented identification with respect to this transaction, is a crime punishable as a felony under Federal law, and may also violate State and/or local law. I further understand that the repetitive purchase of firearms for the purpose of resale for livelihood and profit without a Federal firearms license is a violation of Federal law. (See Instructions for Question 14.)

14. Transferee's/Buyer's Signature: [Signature] 15. Certification Date: 5/8/19

Section B - Must Be Completed By Transferor/Seller

16. Type of firearm(s) to be transferred (check or mark all that apply):
☒ Handgun ☐ Long Gun (rifles or shotguns) ☐ Other Firearm (frame, receiver, etc. See Instructions for Question 16.)

17. If transfer is at a qualifying gun show or event:
Name of Function: _____
City, State: _____

Section D - Must Be Completed By Transferor/Seller Even If The Firearm(s) Is Not Transferred

24. Manufacturer and Importer (If any) (If the manufacturer and importer are different, the FFL must include both.)	25. Model (If Designated)	26. Serial Number	27. Type (See Instructions for Question 27.)	28. Caliber or Gauge
1. <u>Rock Island Armory</u>	<u>M200</u>	<u>RIA1999.506</u>	<u>revolver</u>	<u>38sp/</u>
2. _____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____
4. _____	_____	_____	_____	_____

Count 4: False Statement During Purchase of Firearm (5/8/2019)

- ✓ DeBorba knew the statement was false
 - ¶¶ 2-6, 30: DeBorba admits that “he was aware at all relevant times relevant to this case that he did not have legal status in the United States.”
- ✓ False statement was material
 - ¶ 11: “DeBorba’s statements regarding his citizenship and legal status influenced Brass Tacks Munitions into believing that the firearm could be sold to DeBorba in compliance with Title 18, United States Code, Section 922(d)(5).”

Count 5: False Statement During Purchase of Firearm (4/4/2019)

- ✓ Cabela's= licensed firearms dealer
 - ¶ 10
- ✓ In connection with acquiring a Sig Sauer model 1911 STX .45 auto caliber handgun, DeBorba made a false statement
 - ¶ 10; Ex. 3 (4473; Firearms Transaction Record)

U.S. Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives

Gun IDs 8331337
Firearms Transaction Record
Phone Number: 978-398-5793

OMB No. 1540-0020
0 04760 21721 0

Double Check: AD

WARNING: You may not receive a firearm if prohibited by Federal or State law. The information you provide will be used to determine whether you are prohibited from receiving a firearm. Certain violations of the Gun Control Act, 18 U.S.C. 921 et. seq., are punishable by up to 10 years imprisonment and/or up to a \$250,000 fine.

Read the Notices, Instructions, and Definitions on this form. Prepare in original only at licensed premises ("licensed premises" includes business temporarily conducted from a qualifying gun show or event in the same State in which the licensed premises is located) unless the transaction qualifies under 18 U.S.C. 922(c). All entries must be handwritten in ink. "PLEASE PRINT."

Transferor's/Seller's Transaction Serial Number (If any)
200558

Section A - Must Be Completed Personally By Transferee/Buyer

1. Transferee's/Buyer's Full Name (If legal name contains an initial only, record "IO" after the initial. If no middle initial or name, record "NMN")
Last Name (Including suffix (e.g., Jr, Sr, II, III)) **DEBORBA** First Name **JOAO** Middle Name **RICARDO**

2. Current State of Residence and Address (U.S. Postal abbreviations are acceptable. Cannot be a post office box.)
Number and Street Address **12800 SE 7TH STREET APT# E1** City **VANCOUVER** County **CLARK** State **WA** ZIP Code **98633**

3. Place of Birth (U.S. City and State) **-OR-** Foreign Country
BRAZIL

4. Height **5** Ft. **7** In. 5. Weight **190** (Lbs.) 6. Sex ☒ Male ☐ Female 7. Birth Date Month **11** Day **11** Year **1990**

8. Social Security Number (Optional, but will help prevent misidentification) **123-45-6789** 9. Unique Personal Identification Number (UPIN) if applicable (See Instructions for Question 9.)

10.a. Ethnicity ☐ Hispanic or Latino ☒ Not Hispanic or Latino 10.b. Race (In addition to ethnicity, select one or more race in 10.b. Both 10.a. and 10.b. must be answered.)
☐ American Indian or Alaska Native ☐ Black or African American ☒ White
☐ Asian ☐ Native Hawaiian or Other Pacific Islander

11. Answer the following questions by checking or marking "yes" or "no" in the boxes to the right of the questions.

	Yes	No
a. Are you the actual transferee/buyer of the firearm(s) listed on this form? Warning: You are not the actual transferee/buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual transferee/buyer, the licensee cannot transfer the firearm(s) to you. Exception: If you are picking up a repaired firearm(s) for another person, you are not required to answer 11.a. and may proceed to question 11.b. (See Instructions for Question 11.a.)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Are you under indictment or information in any court for a felony, or any other crime for which the judge could imprison you for more than one year? (See Instructions for Question 11.b.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Have you ever been convicted in any court of a felony, or any other crime for which the judge could have imprisoned you for more than one year, even if you received a shorter sentence including probation? (See Instructions for Question 11.c.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Are you a fugitive from justice? (See Instructions for Question 11.d.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance? Warning: The use or possession of marijuana remains unlawful under Federal law regardless of whether it has been legalized or decriminalized for medicinal or recreational purposes in the state where you reside.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Have you ever been adjudicated mentally defective OR have you ever been committed to a mental institution? (See Instructions for Question 11.f.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Have you been discharged from the Armed Forces under dishonorable conditions?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h. Are you subject to a court order restraining you from harassing, stalking, or threatening your child or an intimate partner or child of such partner? (See Instructions for Question 11.h.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i. Have you ever been convicted in any court of a misdemeanor crime of domestic violence? (See Instructions for Question 11.i.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>

12.a. Country of Citizenship (Check/List more than one, if applicable. Nationals of the United States may check U.S.A.)
☒ United States of America (U.S.A.) ☐ Other Country/Countries (Specify):

	Yes	No
12.b. Have you ever renounced your United States citizenship?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
12.c. Are you an alien illegally or unlawfully in the United States?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
12.d.1. Are you an alien who has been admitted to the United States under a nonimmigrant visa? (See Instructions for Question 12.d.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
12.d.2. If "yes", do you fall within any of the exceptions stated in the instructions?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

13. If you are an alien, record your U.S.-Issued Alien or Admission number (AEA, USCIS#, or P#):

Previous Editions Are Obsolete
Page 1 of 6

Transferee/Buyer Continue to Next Page
STAPLE IF PAGES BECOME SEPARATED

ATF Form 4473 (5300.9)
Revised October 2010

I certify that my answers in Section A are true, correct, and complete. I have read and understand the Notices, Instructions, and Definitions on ATF Form 4473. I understand that answering "yes" to question 11.a. if I am not the actual transferee/buyer is a crime punishable as a felony under Federal law, and may also violate State and/or local law. I understand that a person who answers "yes" to any of the questions 11.b. through 11.i. and/or 12.b. through 12.c. is prohibited from purchasing or receiving a firearm. I understand that a person who answers "yes" to question 12.d.1. is prohibited from receiving or possessing a firearm, unless the person answers "yes" to question 12.d.2. and provides the documentation required in 18.c. I also understand that making any false oral or written statement, or exhibiting any false or misrepresented identification with respect to this transaction, is a crime punishable as a felony under Federal law, and may also violate State and/or local law. I further understand that the repetitive purchase of firearms for the purpose of resale for livelihood and profit without a Federal firearms license is a violation of Federal law. (See Instructions for Question 14.)

14. Transferee's/Buyer's Signature [Signature] 15. Certification Date **04/04/2019**

Section B - Must Be Completed By Transferor/Seller

Section D - Must Be Completed By Transferor/Seller Even If The Firearm(s) is Not Transferred

24. Manufacturer and Importer (If any) (If the manufacturer and importer are different, the FFL should include both.)	25. Model (If Designated)	26. Serial Number	27. Type (See Instructions for Question 27.)	28. Caliber or Gauge
1. SIG SAUER	1911 STX	54E026501	PISTOL	.45 AUTO
2. _____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____
4. _____	_____	_____	_____	_____

Count 5: False Statement During Purchase of Firearm (4/4/2019)

- ✓ DeBorba knew the statement was false
 - ¶¶ 2-6, 30: DeBorba admits that “he was aware at all relevant times relevant to this case that he did not have legal status in the United States.”
- ✓ False statement was material
 - ¶ 10: “DeBorba’s statements regarding his citizenship and legal status influenced Cabela’s into believing that the firearm could be sold to DeBorba in compliance with Title 18, United States Code, Section 922(d)(5).”

Count 6: False Claim to United States Citizenship (2/25/2019)

- ✓ DeBorba directly and falsely represented himself to be a U.S. citizen
 - ¶ 8 & Ex. 2 (Concealed Pistol License)

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1825
3.18 2/25. JB 2.25 LLB HL 55082122

WASHINGTON STATE DEPARTMENT OF
LICENSING

Concealed Pistol License Application

Office use only

PRINT or TYPE all information.

Application type
☒ Original application ☐ Renewal of license ☐ Late renewal of license ☐ Replacement license

Name (Last, First, Middle)
 DEBORA JOAO RICARDO

Other names by which you have been known (for example: maiden name)

Driver license number

Expiration date

State

Physical address—required
 12800 SE 7th STREET

City VANCOUVER State WA ZIP code 98083

Mailing address (if different)

City State ZIP code

Date of birth Birthplace (City, State/Province, Country) (Area code) Telephone number
 [REDACTED] KINVALE SC. 1 BRAZIL (978) 3985793

Height 5 feet 7 inches Weight 190 pounds Eyes (color) BROWN Hair color NONE Ethnicity
☐ Hispanic or Latino ☐ Not Hispanic or Latino

Race (Check all that apply)
☐ Black or African American ☐ American Indian or Alaska Native ☒ White ☐ Asian ☐ Native Hawaiian or Other Pacific Islander

List type and location of all marks, scars, and tattoos

EMAIL ADDRESS: KOLINHO2005@YAHOO.COM

Residency

1. Are you a U.S. citizen? ☒ Yes ☐ No
 If no, enter country of citizenship

2. Are you a permanent resident alien? ☐ Yes ☒ No
 If yes, enter your permanent resident card number

3. Are you a legal alien temporarily residing in Washington? ☐ Yes ☒ No
 If yes, enter your alien registration/I-94 number and:
 Enter your alien firearms license number: Expiration date:

Answer the following

1. Have you ever been convicted in adult court or adjudicated in a juvenile court of the following crimes when committed by one family or household member against another, on or after July 1, 1993: assault in the fourth degree, coercion, stalking, reckless endangerment, criminal trespass in the first degree, or violation of the provision of a protection order or no-contact order restraining the person or excluding the person from a residence? ☐ Yes ☒ No

2. Are you now on bond or personal recognizance pending trial, appeal or sentence for any serious offense as defined in RCW 9A.01.010 or for a felony for any crime where the judge can imprison you for more than one year? ☐ Yes ☒ No

3. Have you been convicted of 3 or more violations of Washington's firearms laws within any 5-year period? ☐ Yes ☒ No

4. Are you an unlawful user of, or addicted to, marijuana, or any depressant, stimulant, or narcotic drug, or any other controlled substance? ☐ Yes ☒ No

5. Have you ever been adjudicated mentally defective (which includes having been adjudicated incompetent to manage your own affairs) or have you ever been committed to a mental institution? ☐ Yes ☒ No

6. Have you been discharged from the Armed Forces under dishonorable conditions? ☐ Yes ☒ No

7. Are you subject to a court order restraining you from harassing, stalking, or threatening your child or an intimate partner or child of such partner? ☐ Yes ☒ No

8. Have you been convicted in any court of a misdemeanor crime of domestic violence? ☐ Yes ☒ No

9. Have you ever renounced your United States citizenship? ☐ Yes ☒ No

10. Are you an alien illegally in the United States? ☐ Yes ☒ No

Signing this application authorizes the Department of Social and Health Services, as well as mental health institutions and other health-care facilities, to release information relevant to your eligibility for a concealed pistol license to an inquiring court or law-enforcement agency.

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

02/25/2019

Date and place signed

Signature

Count 6: False Claim to United States Citizenship (2/25/2019)


- ✓ DeBorba was not a citizen at that time
 - ¶¶ 2-6, 30: DeBorba admits that “he was aware at all times relevant to this case that he did not have legal status in the United States.”
- ✓ DeBorba made the false representation willfully (voluntarily and deliberately)
 - ¶ 8: “DeBorba knew that his answers ... were false... and thus made [them] voluntarily and deliberately.”

Count 6: False Claim to United States Citizenship (2/25/2019)

- ✓ False representation was made to someone who had good reason to inquire into citizenship
 - ¶ 8: “These questions on the Washington State Department of Licensing form were posed for the purpose of ensuring that the Concealed Pistol License could be issued to DeBorba in compliance with Revised Code of Washington 9.41.070 and 9.41.173 and that DeBorba’s possession of a firearm would comply with Title 18, United States Code, Section 922(g)(5).

Count 7: Unlawful Possession of Firearm Silencer (5/6/2022)

- ✓ Defendant knowingly possessed a firearm silencer
 - ¶¶ 23-25, Ex. 13 (photo), & Ex. 15: ATF Officer Jason Armstrong concluded it meets the definition of “firearm silencer”

U.S. Department of Justice Bureau of Alcohol, Tobacco, Firearms and Explosives		Firearms Technology Criminal Branch Report of Technical Examination	
		244 Needy Road #1600 Martinsburg, WV 25405 Phone: 304-616-4300 Fax: 304-616-4301	
		To: Special Agent Prince Plantara Bureau of Alcohol, Tobacco, Firearms and Explosives 1201 NE Lloyd Boulevard Suite #710 Portland, Oregon 97232	
Date Exhibit Received: 06/21/2022 Delivered By: FedEx 7771 6440 4310		Type of Examination Requested: Examination, Test, Classification	
Exhibit: 1. Cylindrical device, no manufacturer markings, no serial number (suspected silencer).			
Permanent Authority: Title 28 of the United States Code (U.S.C.) provides the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) the authority to investigate criminal and regulatory violations of Federal firearms law at the direction of the Attorney General. Under the corresponding Federal regulation at 28 CFR § 0.130, the Attorney General provides ATF with the authority to investigate, administer, and enforce the laws related to firearms, in relevant part, under 18 U.S.C. Chapter 44 (Gun Control Act) and 26 U.S.C. Chapter 53 (National Firearms Act). Pursuant to the aforementioned statutory and regulatory authority, the ATF Firearms and Ammunition Technology Division (FATD) provides expert technical support on firearms and ammunition to federal, state and local law enforcement agencies regarding the Gun Control Act (GCA) and the National Firearms Act (NFA).			
The Gun Control Act of 1968 (GCA), 18 U.S.C. § 921(a)(3), defines the term “firearm” as: “... (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or silencer; or (D) any destructive device. Such term does not include an antique firearm.”			
The GCA, 18 U.S.C. § 921(a)(25) defines the terms “firearm silencer” and “firearm muffler” to mean: “... any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.”			



Count 7: Unlawful Possession of Firearm Silencer (5/6/2022)

- ✓ DeBorba was aware the device was a firearm silencer
 - ¶ 27: DeBorba stipulates
- ✓ DeBorba had not registered the firearm silencer with the National Firearms Registration and Transfer Record
 - ¶ 26: Firearms Specialist Elicia Elkins confirmed
 - ¶ 27: DeBorba stipulates